

FACE SHEET

FOR FILING ADMINISTRATIVE REGULATIONS

WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATE OF: I hereby certify that the attached

are true and correct copies of regulations
adopted, amended or repealed by this agency
and that the information specified on this Face
Sheet is true and correct.

ISSUED AUG 22 1988

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

SEP 01 1988

Office of Administrative Law
For use of Office of Adm Law

State Department of Social Services

(AGENCY)

John J. McHugh

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date:

8-22-88

RDB #0788-27

FILED

In this office of the Secretary of State
of the State of California

SEP 01 1988

At 5 o'clock P.M.
MARCH FONG EU, Secretary of State
By *Deputy Secretary of State*
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See Instructions)	TITLE	TELEPHONE
Rosalie Clark, Chief, Regulation Development Bureau (916) 445-0313		
2. Type of filing, (check one)	<input type="checkbox"/> 30-day Review	<input checked="" type="checkbox"/> Emergency
<input type="checkbox"/> Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)		
<input type="checkbox"/> Nonsubstantive changes with nonregulatory effect		
<input type="checkbox"/> Printing Error Correction		
3. a. Specify California Administrative Code title and sections as follows:		
Title <u>MPP</u>	SECTIONS ADOPTED: <u>63-079</u>	
SECTIONS AMENDED: <u>63-102c. (5); 63-300.23; 63-301.521 and 531; and 63-504.123 (a), 362, 51, 611, 612, 618, 619, and 621</u>		
SECTIONS REPEALED: <u>None</u>		
b. The following sections listed in 3a contain modifications to the text originally made available to the public:		
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)		
<input type="checkbox"/> prior to the emergency adoption		
<input type="checkbox"/> within 120 days of the effective date of the emergency adoption of the above-referenced regulations.		
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?		
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, if yes, give date(s) of prior submittal(s) to OAL:		
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?		
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, if yes, give date statement was submitted to OAL		
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)		
<input type="checkbox"/> Fair Political Practices Commission (Include FPPC approval stamp)		
<input type="checkbox"/> Building Standards Commission (Attach approval)		
<input type="checkbox"/> State Fire Marshall (Attach approval)		
<input checked="" type="checkbox"/> Department of Finance (Attach properly signed Std. 399)		
<input type="checkbox"/> Other _____ (SPECIFY AGENCY)		
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER Not Applicable	b. DATE OF FINAL AGENCY ACTION August 22, 1988	c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) Not Applicable

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- a. Effective 30th day after filing with the Secretary of State.
- b. Effective upon filing with the Secretary of State.
- c. Effective on _____ as required or allowed by the following statute(s): _____
- d. Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- e. Effective on 10-01-88 (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
 - b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
 - a. Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - b. Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - c. Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).

Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
 - b. Provide the date on which the regulatory agency adopted the regulatory changes.
 - c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
 - a. A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - b. An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - c. If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - d. If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - e. If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.*
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.



LINDA S. McMAHON
Director

Adopt Section 63-079 to read:

63-079 IMPLEMENTATION OF REGULATIONS FOR EXPEDITED 63-079
SERVICES #3

.1 Effective October 1, 1988 the CWDs shall implement the revised and adopted provisions. The sections affected are as follows: 63-102c.(5); 63-300.23; 63-301.521 and .531; 63-504.123(a), .362, .51, .611, .612, .618, .619 and .621.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 18902 and 18904, Welfare and Institutions Code.

Amend Section 63-102c.(5) to read:

63-102 DEFINITIONS (Continued)

63-102

c. (Continued)

(5) "Compliance with CWD Time Limits" means taking action within the time frames specified. ~~unless If~~ the last day for taking action falls on a Saturday the CWD shall take action on or before that date. When the last day for taking action falls on a Sunday or other holiday, as specified in Government Code Sections 6700 and 6701, in which case the CWD shall last day for taking action is on the next normal working day except for expedited service time frames as specified in Section 63-301.531. If the last day falls on a Saturday the CWD shall take action on or before that date.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10554 and 18902, Welfare and Institutions Code.

Amend Section 63-300.23 to read:

63-300 APPLICATION PROCESS (Continued)

63-300

.2 Application Form and Form Deviation (Continued)

.23 Recertification of Monthly Reporting Households

Households which are subject to the food stamp monthly reporting requirements as specified in Section 63-505.2 shall have their food stamp eligibility redetermined by using the DFA 285-A1, DFA 285-A2, and the Monthly Eligibility Report (CA 7) for the budget month that corresponds to the first month of the new certification period.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 7 CFR 273.2(i)(2) and 7 CFR 273.21(q)(2)(iii)(4).

Amend Sections 63-301.521 and .531 to read:

63-301 APPLICATION PROCESSING TIME STANDARDS (Continued) 63-301

.5 Expedited Service (Continued)

.52 Identifying Households Needing Expedited Service (Continued)

.521 Retrospectively budgeted households being recertified or applying after less than a one-month break in certification shall only be entitled to expedited service at initial application as defined if determined eligible in accordance with Section 63-102301.51.

.53 Processing Standards (Continued)

.531 Expedited Service Households

(a) For households entitled to expedited service at initial application, the CWD shall make the ATP or coupons available to the recipient either by mail or for pickup at the household's request, no later than on the third calendar day following the date the application was filed. For purposes of this section, a weekend (Saturday and Sunday) shall be considered one calendar day. However, if the third calendar day is a nonworking day when coupons cannot be issued, the CWD shall make coupons available on or before the working day immediately preceding the nonworking day. Whatever system a CWD uses to ensure meeting this delivery standard, shall be designed to allow a reasonable opportunity for redemption of ATPs no later than the third calendar day following the day the application was filed.

(ai) For example, if the application is filed on Thursday, coupons must be made available to the households on Monday. However, if Monday is a holiday coupons must be made available on Friday or Saturday if coupons are issued on that day.

(b) For households that are being recertified or applying after less than a one-month break in certification and which are entitled to expedited service, the CWD shall make the ATP or coupons available to the recipient either by mail or for pick up at the household's request, no later than the third calendar day following the date the application is filed or by the household's normal issuance cycle in the new certification period, whichever is later. The third calendar day shall be determined in accordance with Section 63-301.531(a). (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 18914(b), Welfare and Institutions Code; and 7 CFR 273.2(i)(1).

Amend Sections 63-504.123(a), .362, .51, .611, .612, .618, .619, and .621 to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING ELIGIBILITY 63-504
(Continued)

.1 Certification Periods (Continued)

.12 Additional Requirements for Establishing Certification Periods for Monthly Reporting Households (Continued)

.123 Changes in Classification (Continued)

(a) When all members of a currently certified NA household apply for PA benefits, the CWD shall inform the household that it may be recertified for food stamps at the time its PA eligibility is determined. In order to do so, the household shall submit an application for recertification and have a joint interview in conjunction with the processing of the PA application. If the household agrees to be recertified in accordance with the PA application, the CWD shall provide the household with the application forms (DFA 235-A1 and DFA 285-A2) necessary to recertify the household. If the household is determined to be eligible for PA benefits, a new food stamp certification period shall be assigned in accordance with Section 63-504.121.

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING ELIGIBILITY 63-504
(Continued)

.3 Monthly Reporting (Continued)

.36 Termination (Continued)

.362 If a household which has been terminated reapplies in the month following termination, the household shall be required to provide the CA 7 which is due in the month following termination. If the household was terminated in accordance with Section 63-504.361(b), it shall also be required to submit the missing CA 7(s) and the food stamp application forms (DFA 285-A1 and DFA 285-A2). The application shall be processed in accordance

with Section 63-504.618(a). If the household fails to provide the CA 7(s), the reapplication shall be denied. Additionally, the food stamp application form DFA 285-A2 shall be required. The application shall be processed in accordance with Section 63-504.642.

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING ELIGIBILITY 63-504
(Continued)

.5 Certified Monthly Reporting Households Applying for Aid in a New County

.51 The applications of households which were certified for Food Stamp Program participation in one county or state and which move to another county or this state and apply for benefits without at least a one-month break in certification, shall be treated as initial applications, as defined in Section 63-102(f) except they shall not be entitled to expedited services and shall continue to be retrospectively budgeted, as specified in Section 63-504.511. Households which have requested and are entitled to expedited service shall have their benefits available in accordance with Section 63-301.531(b).

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING ELIGIBILITY 63-504
(Continued)

.6 Recertification of All Households

.61 General Requirements

.611 The CWD shall complete the application process and approve or deny a timely application for recertification prior to the end of the household's current certification period and shall provide an eligible household with an opportunity to participate by the household's normal issuance cycle in the month following the expiration of the household's certification period. Entitlement to expedited service for households submitting applications for recertification shall be determined in accordance with Section 63-301.51. The CWD shall not continue benefits beyond the end of the certification period unless the household has been recertified. (Continued)

.612 All households shall be provided a notice of expiration in accordance with Section 63-504.251. The CWD shall provide the household with an

application forms with the notice of expiration and include an appointment date for an interview, or the application forms and appointment date for an interview, or the application forms and appointment date may be mailed or given to household separately. (Continued)

•618 Failure to Submit a Timely Reapplication

Households which file an application for recertification after the appropriate date specified in Sections 63-504.613(a), (b), or (c), but by the end of the certification period, shall be considered to have made an untimely application for recertification.

Any household shall lose its right to uninterrupted benefits if it: (1) fails to submit a timely application for recertification unless eligible for expedited service and the application is filed at least three days prior to their next normal issuance date in the new certification period; or (2) if it fails to appear for an interview as specified in Sections 63-504.613(a) and 63-504.614. However, the household shall not be denied at that time, unless it refused to cooperate, or the certification period has lapsed and the CWD chooses to make denials at that time in accordance with Section 63-504.618(b) below. If the household is otherwise eligible after correcting such failures, the CWD shall, at a minimum, provide benefits no later than 30 days after the date the application was filed. (Continued)

•619 CWD Failure to Act

CWD failure to provide eligible households which filed a timely application for recertification and met all processing steps in a timely manner with an opportunity to participate in accordance with Section 63-504.6187, shall be considered an administrative error. These households shall be entitled to restoration of lost benefits if, as a result of such error, the household was unable to participate for the month following the expiration of the certification period.

•62 Process for Recertifying and Action on Timely Reapplications for Monthly Reporting Households

•621 The CA 7 shall be mailed to the household in accordance with its normal mailing time or along with the NEC in accordance with Section 63-504.251. Return of both the CA 7 and the application forms is required to complete the recertification.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 18914(b), Welfare and Institutions Code; 7 CFR 273.2(i)(1) and (2), and 7 CFR 273.21(q)(2)(iii)(4).

FILED
Office of the
Secretary of State
California

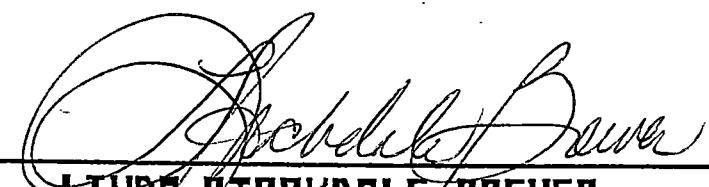
SEP 1 1988
At 10:00 a.m.
MARCH FONG EU, Secretary of State
D. L. DeLoach, Deputy Secretary of State
Linda Stockdale Brewer, Director

OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: State Department of Social Services

DAL File No: 88-0822-03E


LINDA STOCKDALE BREWER
DIRECTOR

9-1-88

Date

88-0829-026

(See Instructions on Reverse)

FACE SHEET

FOR FILING ADMINISTRATIVE REGULATIONS WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended, or re-ordered by this agency and that the information specified on this Face Sheet is true and correct.

FILED

In this office of the Secretary of State
of the State of California

SEP 08 1988

At 4:40 o'clock P. M.

MARCH FONG EU, Secretary of State

By Mello, J.
Deputy Secretary of State

1983 AUG 20 PM: 50

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING
SEP 08 1988

Office of Administrative Law

For use of Office of Adm Law

EMERGENCY

State Department of Social Services	
(AGENCY)	
<i>J. S. Mello</i>	
AGENCY OFFICER WITH RULEMAKING AUTHORITY	
Date:	8-25-88

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING
(See Instructions)

Rosalie Clark, Chief Regulation Development Bureau

TITLE

TELEPHONE

445-0313

2. Type of filing, (check one) 30-day Review Emergency Certificate of Compliance
(Complete Part 4 below)

Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)

Nonsubstantive changes with nonregulatory effect Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

SECTIONS ADOPTED: 50-018

Title _____

SECTIONS AMENDED: _____

SECTIONS REPEALED: _____

b. The following sections listed in 3a contain modifications to the text originally made available to the public: _____

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

prior to the emergency adoption

within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation? No Yes, if yes, give date(s) of prior submittal(s) to OAL: _____

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980? No Yes, if yes, give date statement was submitted to OAL: _____

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

Fair Political Practices Commission (Include FPPC approval stamp) Building Standards Commission (Attach approval)

State Fire Marshall (Attach approval) Department of Finance (Attach properly signed Std. 399)

Other _____

(SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

b. DATE OF FINAL AGENCY ACTION

August 25, 1988

c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

a. Effective 30th day after filing with the Secretary of State.

b. Effective upon filing with the Secretary of State.

c. Effective on Sept. 9, 1988 required ~~to be adopted by the following state(s) to merge with time constraints~~ contained in this package.

d. Effective on _____ (Designate effective date earlier than 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)

Attach request demonstrating good cause for early effective date. Request subject to OAL approval.

e. Effective on _____ (Designate effective date later than the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.

Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.

Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)

b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).

Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).

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- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
- Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
- Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).

Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.

Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.

b. Provide the date on which the regulatory agency adopted the regulatory changes.

c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.

Part 9. Effective Dates — check one of the following:

- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
- An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
- If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
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- If an effective date later than specified above is requested, provide the date.

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- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.



LINDA S. McMAHON
Director

H
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O
K

Adopt new Section 50-018 to read:

50-018 MILLER VS. WOODS

50-018

.1 Background

.11 On October 21, 1983, the Court of Appeal, Fourth District, 48 Ca.App.3d 862 (1983) invalidated Manual of Policies and Procedures (MPP) Section 30-463.233c (later renumbered to 30-763.233c) and ordered the State Department of Social Services (SDSS) to grant prospective and retroactive class action relief. On May 1, 1984, MPP 30-763.233c was repealed, and MPP 30-763.6 became effective. MPP 30-763.6 granted prospective relief to IHSS recipients who were in need of protective supervision and who had housemates who provided protective supervision.

On February 11, 1988, the Superior Court of San Diego County issued the Final Judgment in this lawsuit. Under the terms of the Final Judgment, SDSS must implement regulations to grant retroactive relief to IHSS recipients or applicants and their housemate providers who, since April 1, 1979 have been or were disqualified from receiving protective supervision services or compensation therefor, solely because of SDSS' enforcement of MPP 30-763.233c.

The time periods for retroactive benefits for MILLER v. WOODS are April 1, 1979 through April 30, 1984 for recipients with nonspouse providers and April 1, 1979 through July 31, 1981 for recipients with spouse providers.

Class members are also entitled to underpayments from May 1, 1984 forward for county errors in failing to correctly pay for protective supervision.

The following provisions describe the procedures by which potential class members will be notified, the claims for retroactive benefits processed, and benefits due are determined and paid.

.2 Notification of Potential Claimants

.21 In order to notify potential claimants, the Department shall:

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•211 Send Explanatory Flyer and Standard Claim Forms, in English and Spanish, to all past and present IHSS recipients and providers contained on the IHSS Payroll System, from January 1, 1980 to the most recent period, who at any time during this period lived at the same address. The Department will utilize the services of the Franchise Tax Board to determine and mail to the most current mailing address available for recipients and providers identified in this manner.

•212 Send Explanatory Flyer to all California Medical Assistance Program (Medi-Cal) recipients currently residing in long-term care facilities licensed by the Department of Health Services (DHS). These notices will be sent to the Medi-Cal recipients through the regular Medi-Cal mailing.

•213 Send to each Community Care Licensed Residential Facility for Adults a packet containing sufficient copies for each resident of the Explanatory Flyer B for both court cases. Facility operators will be requested to distribute the flyer to each resident.

•214 Provide each county welfare department with sufficient quantities of Standard Claim Forms, Supplemental Claim Forms, Explanatory Flyers, and 17" x 22" posters modeled after the Explanatory Flyers. Each of the above documents and posters will be in both English and Spanish.

•215 Provide those interested organizations and groups listed in Appendix A-1 through A-9 of the final judgment with copies of the Standard Claim Forms, the Explanatory Flyers, and the posters, with a request to display the posters in a prominent location and to distribute the Explanatory Flyers and Standard Claim Forms on request throughout the claim period.

referred to
in Section
50-018.11

•216 Provide the Federal Social Security Administration offices in California with copies of the posters, in English and Spanish, and request the agency to display the posters throughout the claim period in prominent locations where there is public access.

•22 All the materials identified in this section shall be distributed prior to the effective date of these regulations.

- 23 The claim period identified in this section shall be the six-month period beginning with the effective date of these regulations.
- 24 In order to notify potential claimants, the county welfare departments (CWDs) shall:
 - 241 Place the posters described above in a prominent location in each local office having contact with the public throughout the claim period.
 - 242 Provide the appropriate notification letter and Standard Claim Form to any person inquiring about eligibility for retroactive benefits for MILLER v. WOODS.

•3 Application for Retroactive Benefits

•31 Claimant Responsibilities

- 311 All claims for retroactive payment shall be filed on a MILLER v. WOODS claim form with the county welfare department in which the claimant currently resides.
- 312 The claimant shall complete the claim form, sign the form under penalty of perjury, obtain the signature of a witness under penalty of perjury and forward the claim to the CWD where she/he lives.
- 313 The claim form shall be completed in its entirety and submitted to the CWD by March 9, 1989. Claims submitted after this date shall be denied.
- 314 If the claimant is sent a Notice of Action requesting the completion of either the Standard Claim Form or the Supplemental Claim Form, the claimant shall have thirty (30) days from the date of the Notice of Action to complete and submit the required information to the CWD.
 - (a) If the required information on the Standard Claim Form is not submitted to the CWD within the 30 days, the claim shall be denied.
- 315 The claimant shall cooperate in obtaining all information necessary to process the claim. Failure to provide the needed information shall

result in the denial of that portion of the claim for which the information is necessary.

•32 County Welfare Department Responsibilities - Filing Date

- (a) The CWD shall date stamp the claim form when received. The CWD shall retain all claim forms and envelopes of any claims received for the MILLER v. WOODS lawsuit.
- (b) The date of filing shall be the date postmarked on the envelope.
- (c) If the claim is filed in person at the CWD, the date of filing shall be the date received in the CWD office, e.g., the date stamped on the claim.
- (d) If the filing date cannot be determined as detailed above, the filing date shall be the date the claim was signed.
- (e) If the claim must be forwarded to another county for processing because the services were either provided or received in the second county, the filing date shall be that determined by the forwarding county.
- (f) If the date of filing on the Standard Claim Form is after March 9, 1989, the claim shall be denied.
- (g) If a Supplemental Claim Form, as described in Section 50-018.441, must be sent to the claimant, the filing date shall be determined in accordance with Sections 50-018.32(a), (b), (c) and (d).
- (h) If the CWD receiving the claim determines that services were received or provided while the recipient/applicant lived in another county, for all or part of the claim period, the CWD shall:
 - (1) Send a copy of the claim to each affected county. The CWD shall also send a Notice of Action to the claimant within 10 calendar days of the filing date explaining that the correct CWD will process the claim for the period of time in which the services were provided in the other county.
 - (A) As noted in Section 50-018.32(e) the filing date for the claim will be

that determined by the original receiving CWD.

- (2) If the correct county cannot be determined from the information provided by the claimant on the Standard Claim Form or from other information available to the county, the CWD shall return the claim form to the claimant together with a notice of action explaining that additional information is needed regarding the county in which protective supervision services were rendered. The CWD shall retain a copy of the claim form in the case file.
- (i) The CWD shall determine eligibility/ineligibility and compute the retroactive benefits due within 45 days of the filing date. The CWD shall input this information into the Case Management Information and Payrolling System (CMIPS) so that interest can be computed and the computation returned to the CWD.
- (ii) The CMIPS shall compute the total net amount due, with and without interest and return the computation on a form developed by SDSS to the appropriate CWD within two - five working days.
- (j) Within 10 working days of receiving the computation from CMIPS, the CWD shall issue a Notice of Action to the claimant which contains the information specified in Section 50-018.631, and, if applicable, Sections 50-018.634 and .635. Once the CWD has issued the notice to the claimant, the CWD shall then send the necessary documents through CMIPS so that payment may be issued.
- (k) The 45-and 60-day limits specified in Sections 50-018.32(i) and (j) may be exceeded in situations where completion of the determination of eligibility is delayed because of circumstances beyond the control of the CWD. In these instances, the reason(s) for the delay(s) shall be documented in the case file.
- (l) CWDs receiving claims forwarded from another county shall process the claim, determine eligibility, compute net retroactive benefits,

compute interest, issue the necessary Notice of Action and forward the necessary documents to the CMIPS within 45 days of receipt from the original county.

(m) If the CWD determines it necessary to either return the Standard Claim Form for additional information, signature, or completion or to send the Supplemental Claim Form to the claimant, the receipt of this additional information from the claimant will constitute the start of a new processing period tied to a new filing date.

•33 Retroactive Time Periods

•331 Eligibility for retroactive benefits shall be limited to the following periods:

(a) April 1, 1979 through April 30, 1984 for claims in which the housemate was a nonspouse provider; and,

(b) April 1, 1979 through July 31, 1981 for claims in which the housemate was a spouse provider.

•332 Claims in which the month(s) claimed is beyond the appropriate time period specified in Section 50-018.331(a) shall be processed as underpayments, in accordance with MPP Section 30-768.4.

•4 Claim Processing

•41 Conditions for Class Membership

•411 IHSS recipient/applicant claimant's potentially eligible to receive retroactive benefits are persons who:

(a) Were aged, blind, or disabled during the applicable retroactive period specified in Section 50-018.33 and met the eligibility conditions of MPP 30-755; and,

(b) Were mentally ill, mentally impaired, or mentally confused and may have been hurt or injured if left alone, thus meeting the general conditions for requiring the service of protective supervision; and,

- (c) Received IHSS benefits, but were denied protective supervision services during the applicable retroactive period and the amount of benefits was less than the severely impaired or nonseverely impaired maximum, as applicable at the time; or,
- (d) Applied for IHSS services during the applicable retroactive period and was denied protective supervision solely because the provider was a housemate or a spouse; and,
- (e) Paid the spouse/housemate provider during the applicable retroactive period for the service of protective supervision.

•412 The spouse/housemate provider claimants who are potentially eligible to receive retroactive benefits are persons who:

- (a) Lived with an individual meeting the conditions of Section 50-018.41 and provided protective supervision to that individual during the applicable retroactive period specified in Section 50-018.33; and,
- (b) Were not compensated for providing protective supervision services for the month(s) claimed.

•42 Review of Class Membership Questions

•421 Upon receipt of the Standard Claim Form(s), the CWD shall review the responses to the class membership qualifying questions (Section 2 of the Standard Claim Form).

- (a) If the claimant answered "no" to questions 2A, 2B, or 2C, the CWD shall issue a Notice of Action denying the claim. The notice shall explain that the claimant is not a MILLER v. WOODS class member.
- (1) If the claimant answered "yes" to 2A, 2B, and 2C, but answered "no" to both questions in 2D, that is, the person who the claimant states received protective supervision neither

received nor was denied IHSS benefits, the CWD shall deny the claim and issue a Notice of Action. The notice shall explain that the claimant is not a MILLER v. WOODS class member.

(2) If the claimant answered "unknown" to either question in 2D, the CWD shall issue a Notice of Action and a MILLER v. WOODS Supplemental Claim Form to the claimant to determine whether or not the person who received protective supervision would have been financially eligible for IHSS. The claimant shall have 30 days from the date the CWD mailed the Supplemental Claim Form to complete the form and return it to the CWD.

(b) If the claimant fails to provide a response to any of the qualifying questions in Section 2 of the Standard Claim Form the CWD shall return a copy of the claim form to the claimant, with a Notice of Action requesting the claimant to complete the form and return it to the CWD within 30 days. If the claimant does not respond within 30 days, the claim shall be denied.

43 Review of Information Contained on the Standard Claim Forms(s)

431 The CWD shall review each Standard Claim Form submitted to determine if the claimant has provided the information necessary to further process the claim. For the purposes of this determination, a claim shall be considered complete when all the following requirements are met:

(a) The following information requested in Section 1 is provided: name, social security number, current address, and zip code.

(b) All qualifying questions in Section 2 are answered.

(c) If Section 3 is applicable, the address and zip code.

(d) The following information requested in Section 4 is provided: name of person who received protective supervision; his/her social security number; his/her current address, including zip code; and his/her relationship to the provider.

(e) The information requested in Section 5 is provided, as applicable, including: a "check mark" for each month the claimant is claiming uncompensated services were provided and hours of uncompensated services provided for each month.

(f) In Section 6, the Standard Claim Form is signed by the claimant and dated.

(g) In Section 7, the Standard Claim Form is signed by a person who can verify the claim, is dated, and the verifying person's relationship to the claimant is identified and this person's address is listed.

432 If the CWD determines the Standard Claim Form has not been completely filled out, or if the claimant and a witness have not signed and dated the form, the CWD shall deny the claim for insufficient information. The CWD shall send the claimant a Notice of Action denying the claim and specifying that portion of the form which is in need of completion. The Notice of Action shall also state that the claimant has 30 days to submit the completed form/needed information to the CWD. If the completed form is not returned to the CWD within the 30 days, the denial shall stand.

433 Upon receipt of the information requested in Section 50-018.432, the CWD shall review the resubmitted information to determine if the claim is now complete in accordance with the criteria in Section 50-018.431. If complete, the CWD shall continue with processing the claim.

(a) If the claim is still not complete, the CWD shall deny the claim for the period in question.

•434 Failure on the part of the claimant to respond within the 30-day period shall result in the denial of that portion of the period claimed for which the information/clarification was requested. For any remaining portion of the period claimed, the CWD shall proceed with processing the claim(s).

•44 Supplemental Claim Form(s)

•441 The CWD shall issue a Supplemental Claim Form to the claimant whenever the CWD is unable to locate either a previously approved IHSS case record or a record of denial. The purpose of the Supplemental Claim Form shall be to determine whether or not the person who received protective supervision services met or would have met the income/resource eligibility requirements for IHSS services during the period claimed. The CWD shall include a Notice of Action with the Supplemental Claim Form stating that the completion of the form is necessary in order to further determine eligibility for retroactive benefits and that the claimant must return the completed form to the CWD within 30 days.

•442 The CWD shall date stamp the receipt of the submitted Supplemental Claim Form following the provisions of Section 50-018.32(q). The receipt of the Supplemental Claim Form shall then constitute the need for a new filing date, to be determined in accordance with Section 50-018(q).32.

•443 The CWD shall review the submitted Supplemental Claim Form to ensure that all questions are answered, all required information is provided, and that the form is signed and dated by both the claimant and by a verifying witness.

•444 If the CWD determines that claim is incomplete based on the criteria in Section 50-018.443, the CWD shall send a Notice of Action requesting the missing information and attach to the notice the original Supplemental Claim Form submitted. The Notice of Action shall specify the section number of the form which is in need of completion and shall state that the claimant has 30 days from the date of the notice to submit the completed form or

the claim will be denied for the benefit period in question because of insufficient information.

(a) Upon receipt of the information requested in Section 50-018.444, the CWD shall review the submitted information to determine whether the claim is now complete in accordance with Section 50-018.443. If complete, the CWD shall continue with processing the claim. If the Supplemental Claim Form is still not complete, the CWD shall deny the claim for the period in question.

•445 If the completed Supplemental Claim Form is not received from the claimant within the 30-day limit, the CWD shall deny the claim for the period in question.

•446 Information submitted by the claimant on the Supplemental Claim Form shall be presumed to be true as long as the form has been signed and dated by both the claimant and a witness, unless the CWD has information available which contradicts information supplied by the claimant. If the CWD has such information available and the CWD determines that information indicates that the person who received protective supervision services would not have been financially eligible for IHSS, the CWD shall deny the claim for the period in question and shall specify on the Notice of Action that information which the CWD has in its possession which refutes the claimant's statement(s).

•45 Existing Case File and Information Requirement

•451 The CWD shall determine if there is an existing case file with which to match claim information for determining eligibility. The CWD shall not require the claimant to provide information other than that requested on the Standard Claim Form and, as appropriate, the Supplemental Claim Form.

•452 If the CWD cannot locate a case file for the IHSS recipient/applicant for whom it is claimed protective supervision services were provided without IHSS compensation, or if the CWD cannot determine eligibility from the existing case file for the months claimed, the CWD shall send to the

claimant Supplemental Claim Form for the MILLER v. WOODS court case in accordance with Section 50-018.44.

•453 All information received and/or obtained in relation to the MILLER v. WOODS court case, and all forms generated as a result of the court case, shall be retained by the CWD in a case file. These documents shall include but not be limited to:

- (a) completed Standard Claim Forms and any subsequent resubmittals;
- (b) completed Supplemental Claim Forms, if applicable, and any subsequent resubmittals;
- (c) completed Eligibility Determination Worksheets, including documentation of retroactive benefit and prejudgment interest calculations;
- (d) a copy of any Notices of Action sent the claimant;
- (e) a copy of any correspondence with other CWDs in relation to the claim;
- (f) all CMIPS documents; and,
- (g) a copy of any other documents available to the county and used in the determination of eligibility and computation of benefits.

•46 Presumptive Need for and Provision of Protective Supervision

•461 An eligible IHSS recipient/applicant is presumed to have needed protective supervision for the months claimed during the applicable retroactive period if:

- (a) A need for protective supervision was assessed at any time; and/or
- (b) A recipient's or applicant's need for protective supervision is attested to by a sworn statement from the claimant and verified by a sworn statement of a witness.

The CWD shall consider any other documentation submitted by the claimant to support the presumption of need for protective supervision; and,

(c) Other information available to the CWD, including previous or current IHSS casefiles, does not rebut the presumption of need for protective supervision.

•462 An eligible IHSS recipient/applicant is presumed to have received protective supervision services for the months claimed during the applicable retroactive period if the delivery of such services is attested to by a sworn statement from the claimant and verified by a sworn statement of a witness, and other information available to the CWD, including previous or current IHSS casefiles, does not rebut the presumption of delivery of protective supervision services.

(a) The CWD shall presume that any protective supervision services provided and claimed were not provided voluntarily.

•463 If information available to the CWD rebuts the presumption of either the need for or the delivery of protective supervision services during any of the months claimed during the applicable retroactive period, the claim shall be denied for the month(s) in question.

•5 Use of County Worksheet to Calculate Benefits Due and Document Findings

•51 The CWD shall use the MILLER v. WOODS Eligibility Determination Worksheet to document all determinations made on each claim submitted. Such documentation shall include, but not be limited to, any partial or total denials of claims and the reason for such denials.

•52 On Part 1 of the worksheet, the CWD shall complete Sections 1 through 3 for all claims submitted; Sections 4 through 10 shall be completed when the person who received protective supervision was authorized IHSS during the month(s) claimed; and, the CWD shall complete Sections 11 through 13 when the person who received protective supervision was denied IHSS during the month(s) claimed.

•53 In determining eligibility for those claims in which the CWD has verified by the case record that the person who received protective supervision services was an IHSS recipient, or was authorized IHSS during the month(s) claimed, the CWD shall do the following:

•531 Determine whether or not the case record indicates that protective supervision services were denied during the month(s) claimed for a reason other than because a spouse/housemate was providing the service.

(a) If, for any month(s) claimed, the case record indicates that the denial was based on a reason other than the provision of protective supervision by the spouse/housemate, the CWD shall deny those claimed months in which the provision of protective supervision by the spouse/housemate was not the sole reason for denial. The CWD shall then proceed to process the claim for any remaining month(s) of eligibility.

•532 Determine whether or not any information exists outside the case record which indicates that protective supervision services were denied during the month(s) claimed for any reason other than the provision of protective supervision by the spouse/housemate. Information outside the case record shall consist of, but not be limited to, the CWD's knowledge of the IHSS recipient's placement in a state hospital or other type of out-of-home care during the month(s) claimed.

(a) If, for any month(s) claimed, information exists outside the case record, as described in Section 50-018.532, the CWD shall deny the claim for those months. The CWD shall document the reason for the denial and proceed to process the claim for any remaining month(s) of eligibility.

•533 Determine from the case record whether or not the IHSS recipient was receiving the statutory maximum payment, as described in Section 50-018.59, during any eligible month(s) claimed.

(a) For any eligible month(s) claimed in which the IHSS recipient was receiving the

statutory maximum payment, the CWD shall deny the claim for those months. The reason for the denial shall be documented on the worksheet. The CWD shall then proceed to Section 50-018.55 and determine if there are any remaining month(s) in which the case was not at the statutory maximum.

.54 In determining eligibility for those claims in which the person claimed to have received protective supervision was denied IHSS during the month(s) claimed, the CWD shall locate the record of denial and follow the procedures in Sections 50-018.531, .532, and .533. The CWD shall then proceed to Section 50-018.57 for the actual calculation of net benefits on non-IHSS cases.

.541 If the CWD is unable to determine from the record the reason for denial of IHSS during either the entire or partial period claimed, the CWD shall issue a Notice of Action and a Supplemental Claim Form to the claimant to establish whether or not the person claimed to have received protective supervision would have met the income/resource eligibility requirements for IHSS. The claimant shall have 30 days to complete the Supplemental Claim Form and return it to the CWD, or the claim shall be denied.

.542 Upon the CWDs receipt of the completed Supplemental Claim Form, the CWD shall proceed to Section 50-018.57 if:

(a) The claimant's responses on the form indicate that the IHSS income/resource eligibility requirements would have been met during the period claimed; or,

(b) The claimant's responses on the form indicate that the IHSS income/resource eligibility requirements would not have been met during the period claimed. In which case, the CWD shall deny the claim for that period(s) of ineligibility and document the reason for denial then proceed to Section 50-018.57 for any remaining period(s) of eligibility.

.543 If the claimant fails to return the completed Supplemental Claim Form to the CWD within 30 days

the CWD shall deny those months in which the IHSS eligibility could not be established. If there are any remaining months of eligibility, the CWD shall proceed to Section 50-018.57 and continue processing the claim.

.55 Calculating the Actual Net Retroactive Benefits - IHSS Cases

.551 For each claim in which IHSS eligibility during the applicable retroactive period has been established by the findings in the case record, the CWD shall use Part II of the worksheet to calculate the benefits due for each month as follows:

- (a) The month and year claimed; provided
- (b) A determination of whether the claimant is "class eligible", as defined in either Section 50-018.411 or .421, for that month;
- (c) The number of hours claimed;
- (d) The dollar amount claimed, which shall be determined by multiplying the number of hours claimed by the CWD's lowest individual provider hourly wage rate during the period claimed;
- (e) The amount of payment the IHSS recipient was originally authorized during the applicable retroactive period;
- (f) The applicable statutory maximum as defined in Section 50-018.59;
- (g) If the case record indicates that the IHSS recipient was severely impaired, the CWD shall compute benefits using the applicable severely impaired maximums. If the case record indicates that the IHSS recipient was nonseverely impaired, the CWD shall calculate benefits using the applicable nonseverely impaired maximums.
- (h) The applicable statutory maximum, as defined in Section 50-018.59 minus the

amount originally authorized, as defined in Section 50-018.551(e); and,

(h) Total benefits due.

(1) For those claims in which it has been established by the case record that the person who is claimed to have received protective supervision services was an IHSS recipient, the total benefits due shall be the lesser of either of the following:

(A) The difference between the applicable statutory maximum, as defined in Section 50-018.59 and the amount originally authorized, as defined in Section 50-018.551(e) or,

(B) The amount claimed, as defined in Section 50-018.551(d).

•56 Examples

•561 Example A:

(a) The spouse of a severely impaired IHSS recipient claims that he/she provided 100 hours per month of protective supervision for the period April 1979 - May 1980.

(b) The claimant is determined to be class eligible for each month claimed.

(c) During the period April 1979 - June 1979, the CWD's lowest hourly individual provider wage rate was \$2.25; for the period July 1979 - May 1980, the rate was \$2.35.

(d) During the period April 1979 - June 1979, the severely impaired statutory maximum was \$621. For the period July 1979 - May 1980, the severely impaired maximum was \$664.

(e) The IHSS recipient was authorized to receive \$621 for the period April 1979 - December 1979 and \$500 was authorized for the period January 1980 - May 1980.

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The benefits due would be calculated as follows:

STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

DEPARTMENT OF SOCIAL SERVICE

MILLER v. WOODS ELIGIBILITY DETERMINATION WORKSHEET - PART II

PROVIDER'S NAME:						SOCIAL SECURITY #			
RECIPIENT'S NAME:						CASE NUMBER:			
COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6		COLUMN 7	COLUMN 8	
Month/Year Claimed	Class Eligible? Yes/No	Hours Claimed	Amount Claimed (Hours claimed x IP Rate During Month Claimed)	Amount Originally Authorized	Stat. Max. During Month Claimed	NSI	SI	Stat. Maximum Minus Amount Originally Authorized	Amount Due (Enter Column 4 or Column 7 whichever is less)
4/29	Y	100	\$ 225	\$ 621	\$ 621	X		\$ 0	\$ 0
5/79	Y	100	225	621	621	X		0	0
6/79	Y	100	225	621	621	X		0	0
7/79	Y	100	235	621	664	X		43	43
8/79	Y	100	235	621	664	X		43	43
9/79	Y	100	235	621	664	X		43	43
10/79	Y	100	235	621	664	X		43	43
11/79	Y	100	235	621	664	X		43	43
12/79	Y	100	235	621	664	X		43	43
1/80	Y	100	235	500	664	X		164	164
2/80	Y	100	235	500	664	X		164	164
3/80	Y	100	235	500	664	X		164	164
4/80	Y	100	235	500	664	X		164	164
5/80	Y	100	235	500	664	X		164	164
								Total Due:	\$1,078.00

• 562 Example B:

- (a) A housemate of a nonseverely impaired IHSS recipient files a claim stating that he/she provided 140 hours per month of protective supervision for the period April 1979 - June 1979.
- (b) Claimant is found class eligible for each month claimed. During the claimed period, the CWD's lowest hourly individual provider wage rate was \$2.25 and the nonseverely impaired statutory maximum was \$431.
- (c) During the entire period claimed, the IHSS recipient was authorized to receive \$400 per month.

(d) The benefits due would be calculated as follows:

•563 Example C

- (a) The housemate of a nonseverely impaired (NSI) IHSS recipient files a claim stating that he/she provided 275 hours per month of protective supervision for the period April 1979 - April 1980.
- (b) The claimant is found to be class eligible for each month claimed.
- (c) For the period April 1979 - June 1979, the CWD's lowest hourly individual provider wage rate was \$2.25. For the period July 1979 - April 1980, the lowest hourly individual provider rate was \$2.35. During the period April 1979 - June 1979, the nonseverely impaired statutory maximum was \$431. For the period July 1979 - April 1980, the nonseverely impaired statutory maximum was \$460.
- (d) The IHSS recipient was authorized to receive \$431 for the period April 1979 - June 1979 and he/she was authorized \$460 for the period July 1979 - April 1980. The

benefits due would be calculated as follows:

STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

DEPARTMENT OF SOCIAL SERVICES

MILLER v. WOODS ELIGIBILITY DETERMINATION WORKSHEET - PART II

PROVIDER'S NAME:						SOCIAL SECURITY #		
RECIPIENT'S NAME:						CASE NUMBER:		
COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6		COLUMN 7	COLUMN 8
Month/Year Claimed	Class Eligible? Yes/No	Hours Claimed	Amount Claimed (Hours claimed x IP Rate During Month Claimed)	Amount Originally Authorized	Stat. Max. During Month Claimed	NSI	SI	Stat. Maximum Minus Amount Originally Authorized
4/79	X	275	\$ 618.75	\$ 431	\$ 431	X		\$ 0
5/79	X	275	618.75	431	431	X		0
6/79	X	275	618.75	431	431	X		0
7/79	X	275	646.25	460	460	X		0
8/79	X	275	646.25	460	460	X		0
9/79	X	275	646.25	460	460	X		0
10/79	X	275	646.25	460	460	X		0
11/79	X	275	646.25	460	460	X		0
12/79	X	275	646.25	460	460	X		0
1/80	X	275	646.25	460	460	X		0
2/80	X	275	646.25	460	460	X		0
3/80	X	275	646.25	460	460	X		0
4/80	X	275	646.25	460	460	X		0
							Total Due:	\$ 0

564 Example 0

(a) The housemate of a severely impaired IHSS recipient claims that he/she provided 160 hours per month of protective supervision services during the period July 1979 - March 1980.

(b) The case record indicates that from January 1980 - March 1980, the IHSS recipient was placed in a state hospital; therefore, the claimant is found to be class eligible only for the period July 1979 - December 1979.

(c) From July 1979 - December 1979, the CWD's lowest hourly individual provider wage rate was \$2.45.

(d) The severely impaired statutory maximum from July 1979 - December 1979 was \$664. The IHSS recipient was authorized to receive \$600 during the period July 1979 - October 1979 and \$625 from November 1979 - December 1979.

(e) The benefits due would be calculated as follows:

MILLER v. WOODS ELIGIBILITY DETERMINATION WORKSHEET - PART II								
PROVIDER'S NAME:				SOCIAL SECURITY #				
RECIPIENT'S NAME: CASE NUMBER:								
COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6		COLUMN 7	COLUMN 8
Month/Year Claimed	Class Eligible? Yes/No	Hours Claimed	Amount Claimed (Hours claimed x IP Rate During Month Claimed)	Amount Originally Authorized	Stat. Max. During Month Claimed	NSI SI	Stat. Maximum Minus Amount Originally Authorized	Amount Due (Either Column 4 or Column 7 whichever is less)
7/19	Y	160	\$ 392	\$ 600	\$ 664	X	\$ 64	\$ 64
8/79	Y	160	392	600	664		64	64
9/79	Y	160	392	600	664		64	64
10/79	Y	160	392	600	664		64	64
11/79	Y	160	392	625	664		39	39
12/79	Y	160	392	625	664		39	39
1/80	N	160	NA	0	NA		0	0
2/80	N	160	NA	0	NA		0	0
3/80	N	160	NA	0	NA		0	0
							Total Due:	\$334.00

•57 Calculating the Actual Net Retroactive Benefits-Denied/No Record Cases.

•571 For each claim in which the CWD has either located a record of IHSS denial or the CWD has been unable to locate a case record and eligibility for IHSS has been established by the responses on the Supplemental Claim Form, the CWD shall use Part II of the worksheet to calculate and document the benefits due as follows for each month claimed:

(a) The month and year claimed:

- (b) Whether or not the claimant is class eligible, as defined in either Section 50-018.411 or .421;
- (c) The number of hours claimed;
- (d) The dollar amount claimed, as defined in Section 50-018.551(d);
- (e) The applicable nonseverely impaired statutory maximum, as defined in Section 50-018.59.
- (f) The CWD shall use the applicable nonseverely impaired statutory maximum to calculate benefits for all eligible cases in which the CWD has neither a record of denial or the case record could not be located and eligibility has been the case record could not be located and eligibility has been established through the Supplemental Claim Form.
- (g) The total benefits due, which shall be the amount claimed, as defined in Section 50-018.551(d), as long as the amount claimed for any month does not exceed the applicable nonseverely impaired statutory maximum during the month claimed.
- (h) If the amount claimed for any month does exceed the applicable nonseverely impaired statutory maximum for that month, the total benefits due shall be limited to the applicable nonseverely impaired statutory maximum amount during the month claimed.

.58 Examples

.581 Example A

- (a) A housemate of a nonseverely impaired individual who was denied IHSS files a claim stating that he/she provided 200 hours per month of protective supervision during the period June 1979 - December

1980. The claimant is found to be class eligible for the entire period claimed.

- (b) The CWD's lowest hourly individual provider rate for the months June 1979 - November 1979 was \$2.25; for the period December 1979 - December 1980, the lowest hourly rate was \$2.50.
- (c) For the month of June 1979; the nonseverely impaired statutory maximum was \$431; for July 1979 - June 1980, it was \$460; \$532 was the maximum for the period July 1980 - December 1980.
- (d) The total benefits due would be calculated as follows:

MILLER v. WOODS ELIGIBILITY DETERMINATION WORKSHEET - PART II

•582 Example B

(a) The spouse of a nonseverely impaired individual, who is claimed to have applied for IHSS and been denied, files a claim stating that he/she provided 20 hours per month of protective supervision for the period June 1979 - August 1980.

(b) A record of denial could not be located; therefore, IHSS eligibility was based on the responses to the Supplemental Claim Form. The responses indicate, however, that the IHSS applicant would have met the

income/resource eligibility requirements for IHSS only during the period December 1979 - August 1980. The claimant is therefore found to be class eligible for the months December 1979 - August 1980 only.

(c) For the month of December 1979, the CWD's lowest hourly individual provider wage rate was \$2.35; for the months January 1980 - August 1980, the lowest hourly rate was \$2.40.

(d) For the period December 1979 - June 1980, the nonseverely impaired statutory maximum was \$460; for the period July 1980 - August 1980 it was \$532.

(e) The total benefits due would be calculated as follows:

STATE OF CALIFORNIA-HEALTH AND WELFARE AGENCY

DEPARTMENT OF SOCIAL SERVICES

MILLER v. WOODS ELIGIBILITY DETERMINATION WORKSHEET - PART II

PROVIDER'S NAME:						SOCIAL SECURITY #	
RECIPIENT'S NAME:						CASE NUMBER:	
COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6	COLUMN 7	COLUMN 8
Month/Year Claimed	Class Eligible? Yes/No	Hours Claimed	Amount Claimed (Hours claimed x IP Rate During Month Claimed)	Amount Originally Authorized	Stat. Max. During Month Claimed	NSI SI	Stat. Maximum Minus Amount Originally Authorized (Either Column 4 or Column 7 whichever is less)
6/79	N	20	NA	\$ 0	NA	X	NA \$ 0
7/79	N	20	NA	0	NA		NA 0
8/79	N	20	NA	0	NA		NA 0
9/79	N	20	NA	0	NA		NA 0
10/79	N	20	NA	0	NA		NA 0
11/79	N	20	NA	0	NA		NA 0
12/79	Y	20	\$ 47	0	\$ 460		\$ 460 47
1/80	Y	20	48	0	460		460 48
2/80	Y	20	48	0	460		460 48
3/80	Y	20	48	0	460		460 48
4/80	Y	20	48	0	460		460 48
5/80	Y	20	48	0	460		460 48
6/80	Y	20	48	0	532		532 48
7/80	Y	20	48	0	532		532 48
8/80	Y	20	48	0	532		532 48
							Total Due: \$431

.59 IHSS STATUTORY MAXIMUMS DURING RETROACTIVE PERIOD

<u>EFFECTIVE DATE</u>	<u>NSI</u>	<u>SI</u>
7/1/78	\$431	\$621
7/1/79	\$460	\$664
7/1/80	\$532	\$767
7/1/81	\$581	\$838
7/1/82	\$581	\$838
7/1/83	\$604	\$872

.6 General Provision

.61 Share of Cost

.611 The CWD shall not consider any recipient share of cost when computing the amount of retroactive benefits due.

.62 Prejudgment Interest

.621 Prejudgment interest shall be calculated at the following rates:

(a) Seven percent for the period April 1, 1979 through December 31, 1982; and,

(b) Ten percent for the period January 1, 1983 through April 30, 1984.

.622 The interest shall be computed on the amount of the monthly benefit up through the last day of the month following the month in which payment is authorized.

.63 Notice of Action

.631 For each claim received, the CWD shall issue a Notice of Action within 60 days of the date of filing. The date of filing shall be determined as specified in Section 50-018.32. The Notice of Action shall contain the following information:

(a) The month(s) determined eligible and/or ineligible for retroactive benefits. The reason(s) for any months determined ineligible shall be clearly stated;

- (b) The amount of benefits due for each month, which shall be shown with and without interest;
- (c) The amount of benefits and interest due for each year, if benefits are claimed for more than one year;
- (d) The total benefits due and the total amount of interest due;
- (e) The combined amount due;
- (f) A statement regarding withholding taxes; and,
- (g) A statement regarding the claimant's right to a State Hearing on MILLER v. WOODS determinations made by the CWD and information on how to request such hearings.

•632 Each Notice of Action issued due to the claimant's failure to complete either the Standard Claim Form or Supplemental Claim Form in its entirety shall specify those sections of the form in need of completion.

•633 Each Notice of Action issued due to the CWD having adverse contradictory information in its possession shall describe that information which the CWD has and shall advise the claimant that he/she has 30 days in which to refute the information or the claim shall be denied.

•634 For each claim denied, the Notice of Action shall clearly state the reason(s) for each period claimed and denied.

•635 For each approved claim in which the claimant is currently an IHSS recipient, the Notice of Action shall advise the claimant that the payment received as a result of his/her MILLER v. WOODS claim may adversely affect his/her IHSS, SSI eligibility or other aid program eligibility and that for further information the claimant should contact his/her CWD worker.

•64 State Hearings

•641 The right to request a state hearing on any MILLER v. WOODS claims shall be granted only to MILLER v. WOODS claimants or their authorized representatives.

•65 Treatment of Lump Sum Payments

•651 It shall be the responsibility of the CWD to determine how the lump sum MILLER v. WOODS retroactive payment affects or does not affect the continued eligibility of all MILLER v. WOODS claimants who are currently IHSS recipients.

•652 MILLER v. WOODS payments shall be disregarded for IHSS financial eligibility determinations for the month of receipt and the following month. Any remaining balance from the MILLER v. WOODS payment shall be counted as a resource in the second month following the month of receipt.

•7 Monitoring CWD Compliance

•71 County Statistical Reports

•711 Beginning November 1, 1988 and continuing for one year, the CWD shall submit to SDSS quarterly statistical reports which shall contain the following information:

- (a) The number of claims received;
- (b) The number of claims denied;
- (c) The number of claims approved;
- (d) The number of claims pending; and,
- (e) The amount of benefits approved.

•712 The CWD shall submit the reports to SDSS on the MILLER v. WOODS statistical report form developed by SDSS. These reports shall be sent to the attention of the Adult Services Bureau.

•72 Final Report

•721 SDSS shall obtain from the CMIPS a final report, by county, that includes the following:

- (a) The number of claimants paid;

- (b) The total amount of benefits paid;
- (c) The number of underpayments paid; and,
- (d) The total amount of underpayments paid.

.73 Case Reviews

- .731 Based on the quarterly reports required under Section 50-018.71, SDSS shall determine the fifteen (15) counties having the largest number of claims over the six-month period.
- (a) For those counties described in Section 50-018.731, SDSS shall review a random sample of the claims to determine whether or not they were granted or denied in accordance with the MILLER v. WOODS retroactive regulations contained herein.

.74 County Cooperation

- .741 Each CWD shall cooperate with SDSS in providing information deemed necessary to monitor county compliance with the provisions of these regulations and the MILLER v. WOODS final judgment.

Authority Cited: 10553 and 10554 of the Welfare and Institutions Code.

Reference: Superior Court of the State of California, County of San Diego MILLER v. WOODS (case No. 468192) issued February 11, 1988.

.8 Appendix - Forms

MILLER V. WOODS

STANDARD CLAIM FORM

STRUCTIONS: Please print. Fill in as much information as you can. If you need help, call, or go into your county welfare department. Sign your name in Section 6 and have someone who knows that you provided the services sign in Section 7.

REMEMBER: You must get this claim form to the county welfare department by March 9, 1989 to get any money.

YOUR NAME	SOCIAL SECURITY NUMBER	TELEPHONE NUMBER ()
-----------	------------------------	-------------------------

1. CURRENT ADDRESS: (NUMBER, STREET)		APARTMENT/SPACE NUMBER
--------------------------------------	--	------------------------

CITY	COUNTY	STATE	ZIP CODE
------	--------	-------	----------

2.		YES	NO	UNKNOWN
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- A. Did you live with a mentally ill, mentally impaired or confused person who would get hurt or injured if left alone?
- B. Did you stay and watch out that the person did not get hurt or injured at any time from April 1979 to May 1984?
- C. Were you a relative, friend or spouse of that person?
- D. Did that person apply for and receive In-Home Supportive Services (IHSS) at any time from April 1979 to May 1984?

If no, was the person denied IHSS benefits at any time from April 1979 to May 1984?

3. ADDRESS AT TIME YOU PROVIDED PROTECTIVE SUPERVISION IF DIFFERENT FROM ABOVE

NUMBER, STREET:	APARTMENT/SPACE NUMBER
-----------------	------------------------

CITY	COUNTY	STATE	ZIP CODE
------	--------	-------	----------

4. NAME OF PERSON YOU PROVIDED PROTECTIVE SUPERVISION TO:	HIS/HER SOCIAL SECURITY NUMBER (if known)	TELEPHONE NUMBER ()
---	--	-------------------------

CURRENT ADDRESS: (NUMBER, STREET)	APARTMENT/SPACE NUMBER
-----------------------------------	------------------------

CITY	COUNTY	STATE	ZIP CODE
------	--------	-------	----------

RELATIONSHIP TO YOU

5. ON THE BACK OF THIS FORM LIST THE MONTHS AND HOURS THAT YOU PROVIDED PROTECTIVE SUPERVISION FOR WHICH YOU WERE NOT PAID.

6. I UNDERSTAND THAT THE INFORMATION PROVIDED ABOVE IS SUBJECT TO VERIFICATION AND THAT MY SIGNATURE ON THIS FORM IS AN AUTHORIZATION FOR SUCH INVESTIGATION.

• I, THE UNDERSIGNED, DECLARE UNDER PENALTY OF PERJURY THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT.

SIGNATURE OF PROVIDER:	DATE:
------------------------	-------

7. I, THE UNDERSIGNED, DECLARE UNDER PENALTY OF PERJURY THAT THE PERSON NAMED IN "4" ABOVE PROVIDED PROTECTIVE SUPERVISION (AS DESCRIBED ON THIS CLAIM FORM) TO THE PERSON NAMED IN "4" ABOVE.

SIGNATURE OF WITNESS:	DATE:
-----------------------	-------

RELATIONSHIP TO PROVIDER	RELATIONSHIP TO PERSON TO WHOM PROTECTIVE SUPERVISION WAS PROVIDED
--------------------------	--

ADDRESS: (NUMBER, STREET)	APARTMENT/SPACE NUMBER
---------------------------	------------------------

CITY	COUNTY	STATE	ZIP CODE
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INFORMATION TO ANSWER QUESTION NUMBER 5

INSTRUCTIONS: If you were a friend or relative, complete Column 1 and 2 for the period April 1979 through April 1984.

If you were a spouse, complete Columns 1 and 2 for the period April 1979 through July 1981 ONLY.

Fill in the information in the columns as follows:

Column 1 - Put a check (✓) in the box for each month that you watched out for that person.

Column 2 - For each month you just checked, write the number of hours during that month that you watched the person to prevent harm or injury and were not paid.

REMEMBER: The number of hours each month is the length of time you were home and the person needing your care could be doing something that might get them hurt if left alone.

YEAR/MONTH	COLUMN 1 PROVIDED CARE	COLUMN 2 NUMBER OF HOURS EACH MONTH YOU PROVIDED PROTECTIVE SUPERVISION FOR WHICH YOU WERE NOT PAID.	COLUMN 1		COLUMN 2	
			YEAR/MONTH	NUMBER OF HOURS EACH MONTH YOU PROVIDED PROTECTIVE SUPERVISION FOR WHICH YOU WERE NOT PAID.	YEAR/MONTH	NUMBER OF HOURS EACH MONTH YOU PROVIDED PROTECTIVE SUPERVISION FOR WHICH YOU WERE NOT PAID.
1979 APRIL			1982 JANUARY			
MAY			FEBRUARY			
JUNE			MARCH			
JULY			APRIL			
AUGUST			MAY			
SEPTEMBER			JUNE			
OCTOBER			JULY			
NOVEMBER			AUGUST			
DECEMBER			SEPTEMBER			
1980 JANUARY			OCTOBER			
FEBRUARY			NOVEMBER			
MARCH			DECEMBER			
APRIL			1983 JANUARY			
MAY			FEBRUARY			
JUNE			MARCH			
JULY			APRIL			
AUGUST			MAY			
SEPTEMBER			JUNE			
OCTOBER			JULY			
NOVEMBER			AUGUST			
DECEMBER			SEPTEMBER			
1981 JANUARY			OCTOBER			
FEBRUARY			NOVEMBER			
MARCH			DECEMBER			
APRIL			1984 JANUARY			
MAY			FEBRUARY			
JUNE			MARCH			
JULY			APRIL			
AUGUST						
SEPTEMBER						
OCTOBER						
NOVEMBER						
DECEMBER						

MILLER CONTRA WOODS
FORMA UNIVERSAL PARA RECLAMOS

INSTRUCCIONES: Por favor use letra de imprenta. Démos toda la información que nos pueda proporcionar. Si necesita asistencia, llame o vaya a su departamento de bienestar del condado. Firme en la sección 6 y pida a alguien que sepa que usted brindó los servicios que firme en la sección 7.

RECUERDE: Tiene que hacer llegar esta forma de reclamo al departamento de bienestar del condado antes del 9 de marzo de 1989 para que pueda recibir dinero.

EL NOMBRE DE USTED	NUMERO DE SEGURO SOCIAL	NUMERO DE TELÉFONO ()
1. DIRECCION ACTUAL: (NÚMERO, CALLE)	APARTAMENTO/NÚMERO DE ESPACIO	

CIUDAD	CONDADO	ESTADO	ZONA POSTAL
--------	---------	--------	-------------

2.	SÍ	NO	NO SÉ
A. ¿Vivió usted con una persona que estaba enferma mentalmente, incapacitada mentalmente o confundida que podría resultar lastimada o lesionada si la dejaban sola?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. ¿Permaneció usted ahí y se aseguró que esa persona no resultara lastimada o lesionada en cualquier tiempo de abril de 1979 a mayo de 1984?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. ¿Era usted pariente, amistad o esposa(o) de esa persona?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D. ¿Solicitó esa persona y recibió Servicios de Casa y Cuidado Personal (IHSS) en cualquier tiempo de abril de 1979 a mayo de 1984?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Si no, ¿se le negaron beneficios de IHSS a esa persona en cualquier tiempo durante el período de abril de 1979 a mayo de 1984?			

3. DIRECCIÓN CUANDO USTED PROPORCIONÓ LA SUPERVISIÓN PROTECTORA SI ES DIFERENTE DE LA QUE MENCIONÓ ARRIBA.

NÚMERO, CALLE:	APARTAMENTO/NÚMERO DE ESPACIO
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CIUDAD	CONDADO	ESTADO	ZONA POSTAL
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4. NOMBRE DE LA PERSONA A QUIEN USTED BRINDÓ SUPERVISIÓN PROTECTORA:	NUMERO DE SEGURO SOCIAL DE EL/ELLA (si lo sabe)	NUMERO DE TELÉFONO ()
--	--	---------------------------

DIRECCION ACTUAL: (NÚMERO, CALLE)	APARTAMENTO/NÚMERO DE ESPACIO
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CIUDAD	CONDADO	ESTADO	ZONA POSTAL
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PARENTESCO O RELACIÓN CON USTED

5. EN EL REVERSO DE ESTA FORMA, ANOTE LOS MESES Y LAS HORAS QUE USTED BRINDÓ SUPERVISIÓN PROTECTORA LOS CUALES NO SE LE PAGARON.

6. • ENTIENDO QUE LA INFORMACIÓN QUE SE PROPORCIONA EN ESTA FORMA ESTÁ SUJETA A QUE SEA VERIFICADA Y QUE MI FIRMA EN ESTA FORMA AUTORIZA DICHA INVESTIGACIÓN.
 • YO, EL SUSCRITO, DECLARO BAJO PENA DE PERJURIO QUE LAS DECLARACIONES ANTERIORES SON VERDADERAS Y CORRECTAS.

FIRMA DEL TESTIGO:	FECHA:
--------------------	--------

7. YO, EL SUSCRITO, DECLARO BAJO PENA DE PERJURIO QUE LA PERSONA MENCIONADA CON ANTERIORIDAD EN EL "1", PROPORCIONÓ SUPERVISIÓN PROTECTORA (DE LA MANERA EN QUE SE DESCRIBE EN ESTA FORMA DE RECLAMO) A LA PERSONA QUE SE MENCIONA EN EL "4".

FIRMA DEL TESTIGO:	FECHA:
--------------------	--------

PARENTESCO/RELACIÓN CON EL PROVEEDOR	PARENTESCO CON LA PERSONA A LA QUE SE LE PROPORCIONÓ SUPERVISIÓN PROTECTORA.
--------------------------------------	--

DIRECCIÓN: (NÚMERO, CALLE)	APARTAMENTO/NÚMERO DE ESPACIO
----------------------------	-------------------------------

CIUDAD	CONDADO	ESTADO	ZONA POSTAL
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INFORMACIÓN PARA CONTESTAR LA PREGUNTA 5

INSTRUCCIONES: Si usted era amistad o parente, complete las columnas 1 y 2 para el periodo de abril de 1979 a abril de 1984. Si usted era esoosa(o), complete SOLAMENTE las columnas para el periodo de abril de 1979 a julio de 1981.

Llene la información en las columnas de la siguiente manera:

Columna 1 - Ponga una marca (✓) en el casillero en cada mes en que usted cuidó a esa persona.

Columna 2 - Para cada mes que usted marcó, escriba el número de horas durante ese mes en que usted cuidó a esa persona para evitar que resultara lastimada o lesionada y que no le pagaron.

RECUERDE:

El número de horas en cada mes es la cantidad de tiempo que usted estuvo en casa y la persona que necesitaba del cuidado de usted pudo haber estado haciendo algo que lo/la lastimarla si se le dejaba solo(a).

	COLUMNA 1	COLUMNA 2	COLUMNA 1	COLUMNA 2
AÑO/MES	BRINDÓ EL CUIDADO	NÚMERO DE HORAS CADA MES EN QUE USTED BRINDÓ SUPERVISIÓN PROTECTORA Y EN QUE NO LE PAGARON	AÑO/MES	NÚMERO DE HORAS CADA MES EN QUE USTED BRINDÓ SUPERVISIÓN PROTECTORA Y EN QUE NO LE PAGARON
1979			1982	
ABRIL			ENERO	
MAYO			FEBRERO	
JUNIO			MARZO	
JULIO			ABRIL	
AGOSTO			MAYO	
SEPTIEMBRE			JUNIO	
OCTUBRE			JULIO	
NOVIEMBRE			AGOSTO	
DICIEMBRE			SEPTIEMBRE	
1980			OCTUBRE	
ENERO			NOVIEMBRE	
FEBRERO			DICIEMBRE	
MARZO			1983	
ABRIL			ENERO	
MAYO			FEBRERO	
JUNIO			MARZO	
JULIO			ABRIL	
AGOSTO			MAYO	
SEPTIEMBRE			JUNIO	
OCTUBRE			JULIO	
NOVIEMBRE			AGOSTO	
DICIEMBRE			SEPTIEMBRE	
1981			OCTUBRE	
ENERO			NOVIEMBRE	
FEBRERO			DICIEMBRE	
MARZO			1984	
ABRIL			ENERO	
MAYO			FEBRERO	
JUNIO			MARZO	
JULIO			ABRIL	
AGOSTO				
SEPTIEMBRE				
OCTUBRE				
NOVIEMBRE				
DICIEMBRE				

Miller v. Woods

Supplemental Claim Form

INSTRUCTIONS: Please print. Fill in as much information as you can. If you need help, call or go into your nearest county welfare department office.

REMEMBER: You must complete this supplemental claim form and get it to the county welfare within 30 days to get any money.

1. NAME OF PERSON WHO PROVIDED PROTECTIVE SUPERVISION DURING THE MONTH(S) CLAIMED:

CITY: COUNTY: STATE: ZIP CODE:
CURRENT ADDRESS: (NUMBER, STREET)

2. NAME OF PERSON WHO RECEIVED PROTECTIVE SUPERVISION DURING THE MONTH(S) CLAIMED:

CITY: COUNTY: STATE: ZIP CODE:
CURRENT ADDRESS: (NUMBER, STREET)

3. Did the person listed in #2 above receive Supplemental Security Income/State Supplemental Program (SSI/SSP) benefits (Gold Check) in any of the following years? Place an X below for each year in which SSI/SSP was received.

1979 1980 1981 1982 1983 1984

4. List the average monthly income of the person listed in #2 for the following years:

1979 1980 1981 1982 1983 1984

5. Did the person listed in #2 above have average monthly liquid resources (cash, checking or savings account, trust funds; checks or cash in safety deposit box, stocks or bonds, notes, mortgages, deeds) that were in excess of \$1500 (if the person was single) or \$2250 (if the person was married) during the years April 1979 - April 1984? Yes No

If Yes, place an X below the year(s) in which the person's average monthly liquid resources were more than \$1500 (if the person was single) or \$2250 (if the person was married).

1979 1980 1981 1982 1983 1984

6. APPLICANT'S STATEMENT:

BE SURE YOU HAVE READ AND ANSWERED ALL THE QUESTIONS ABOVE.
READ THE FOLLOWING STATEMENTS CAREFULLY BEFORE SIGNING.

I understand that the information I put on this form may be verified and that my signature on this form is an authorization for such an investigation.

I, the undersigned, declare under penalty of perjury that the answers I have given are correct and true to the best of my knowledge.

SIGNATURE OF APPLICANT:

DATE

7. WITNESS' STATEMENT:

Please have the person who can verify that the information you have provided is true and correct sign below.

SIGNATURE OF WITNESS:

DATE

ADDRESS:

CITY:

COUNTY

STATE:

ZIP CODE:

RELATIONSHIP TO APPLICANT:

RELATIONSHIP TO PERSON WHO RECEIVED PROTECTIVE SUPERVISION:

Miller contra Woods
Forma para Reclamo Suplemental

INSTRUCCIONES: Por favor use letra de imprenta. Incluya toda la información que pueda. Si necesita asistencia, llame o vaya a la oficina más cercana del departamento de bienestar del condado.

RECUERDE: Tiene que completar esta forma para reclamo suplemental y hacerla llegar al departamento de bienestar en un plazo de 30 días para poder recibir dinero.

NOMBRE DE LA PERSONA QUE BRINDÓ LA SUPERVISION PROTECTORA DURANTE LOS MESES DEL RECLAMO:

1.

DIRECCIÓN ACTUAL: (NÚMERO, CALLE)

APARTAMENTO/ESPACIO NÚMERO:

CIUDAD:

CONDADO:

ESTADO:

ZONA POSTAL:

NOMBRE DE LA PERSONA QUE RECIBIÓ LA SUPERVISION PROTECTORA DURANTE LOS MESES DEL RECLAMO:

2.

DIRECCIÓN ACTUAL: (NÚMERO, CALLE)

APARTAMENTO/ESPACIO NÚMERO:

CIUDAD:

CONDADO:

ESTADO:

ZONA POSTAL:

3. ¿Recibió la persona que se mencionó en el #2, beneficiaria de Seguridad de Ingreso Suplemental/Programa Suplementario del Estado (SSI/SSP) (cheque dorado) en cualquiera de los siguientes años? Enseguida coloque una X en cada año en que recibió SSI/SSP.

1979 1980 1981 1982 1983 1984

4. Anote los ingresos mensuales promedio de la persona que se mencionó en el #2 con respecto a los siguientes años.

1979 1980 1981 1982 1983 1984

5. ¿Tuvo la persona que se mencionó en el #2, recursos líquidos mensuales promedio (efectivo, cuenta de cheques o de ahorros, fondos en fideicomiso, cheques o efectivo en una caja de seguridad, acciones o bonos, pagarés, hipotecas, títulos de propiedad) que excedieron \$1,500 dólares (si la persona era soltera) o \$2,250 (si la persona era casada) durante los años de abril de 1979 a abril de 1984?

Sí No

Si la respuesta es sí, coloque una X en cada año en el cual los recursos líquidos mensuales promedio fueron más de \$1,500 dólares (si la persona era soltera) o \$2,250 (si la persona era casada).

1979 1980 1981 1982 1983 1984

6. DECLARACIÓN DEL SOLICITANTE:

ASEGÚRESE DE QUE HA LEÍDO Y CONTESTADO TODAS LAS PREGUNTAS ANTERIORES.

LEA CON DETENIMIENTO LA SIGUIENTE DECLARACIÓN ANTES DE FIRMARLA.

Entiendo que la información que di en esta forma puede ser verificada y que mi firma en la misma da autorización para que se haga dicha investigación.

Yo, el suscrito, declaro bajo pena de perjurio que las respuestas que he dado son correctas y verdaderas según mi mejor entender.

FIRMA DEL SOLICITANTE:

FECHA

7. DECLARACIÓN DEL TESTIGO:

Por favor pida que firme abajo la persona que puede verificar que la información que usted nos dió es correcta.

FIRMA DEL TESTIGO:

FECHA

DIRECCIÓN

CIUDAD:

CONDADO:

ESTADO:

ZONA POSTAL:

ARENTESCO CON EL SOLICITANTE:

PARENTESCO CON LA PERSONA QUE RECIBIÓ SUPERVISION PROTECTORA:

MILLER v. WOODS ELIGIBILITY DETERMINATION WORKSHEET - PART I

OWNER'S NAME:

SOCIAL SECURITY NUMBER:

RECIPIENT'S NAME:

CASE NUMBER:

1. Did the claimant answer "yes" to Questions 2A, B, C on claim form? YES NO
If yes, proceed.
If no, issue denial notice.
2. Did claimant answer "yes" to either question in 2D on claim form? YES NO
If yes, proceed.
If no, issue denial notice.
If "unknown", try to locate either case record or record of denial.
If neither can be located, send Supplemental Claim Form.
3. Do you have any record of a denial or an approval? YES NO
If yes, proceed to 4 if an approval, or to 11 if a denial.
If no, send Supplemental Claim Form.

**INSTRUCTIONS: STEPS 4-10 ARE TO BE FOLLOWED WHEN THE PERSON WHO RECEIVED
PROTECTIVE SUPERVISION WAS AUTHORIZED IHSS DURING THE PERIOD
CLAIMED.**

4. Was case at statutory maximum for any month claimed? YES NO
If "yes" deny months in which case was at stat. max.
If "no" in any month, proceed for months not at stat. max.
5. Is there any information in case record that shows recipient was ineligible for
protective supervision for reason other than housemate providing it? YES NO
If yes, deny claim for months determined ineligible and document reason
for ineligibility, then proceed to 6 for any remaining months of eligibility.
If no, proceed to 6.
If questionable, proceed to 6.
6. Is there any other information (outside the case record) that shows recipient
was ineligible for protective supervision for reason other than housemate
providing it? YES NO
If yes, deny claim for months determined ineligible and document reason
for ineligibility, then proceed to 7 for remaining months of eligibility.
If no, proceed to 7.

7. Was provider a spouse Relative Friend ?

8. If provider was a spouse, compute benefits at the appropriate rate for eligible
months claimed during the period April 1979 - July 1981
9. If provider was a friend or relative, compute benefits at the appropriate rate for
eligible months claimed during the period April 1979 - April 1984.

10. Was recipient SI or NSI? YES NO
If SI, compute each month using SI maximums, not to exceed the allowable maximum
for any given month, including costs of previously authorized services.
If NSI, compute each month using NSI maximums not to exceed the allowable
maximum for any given month, including costs of previously authorized services.

**INSTRUCTIONS: STEPS 11-13 ARE TO BE FOLLOWED WHEN THE PERSON WHO RECEIVED
PROTECTIVE SUPERVISION WAS DENIED AUTHORIZATION FOR IHSS DURING
THE PERIOD CLAIMED.**

11. Was housemate the reason for denial of protective supervision? YES NO
If no, document reason and issue denial notice.
If no for partial period, document reason for ineligibility during period when
housemate was not the reason and proceed to 12.
for period in which housemate was the sole reason for denying protective supervision.
If yes, proceed to 12.
If unknown, send Supplemental Claim Form.
12. If housemate was a spouse, compute eligibility at NSI max. for all months claimed within
the period April 1979 - July 1981.
13. If housemate was a friend or relative, compute eligibility at NSI max. for all months
claimed within the period April 1979 - April 1984.

MILLER v. WOODS ELIGIBILITY DETERMINATION WORKSHEET - PART II

PROVIDER'S NAME:

SOCIAL SECURITY #

RECIPIENTS NAME:

CASE NUMBER:

FILED

In this office of the Secretary of State
of the State of California

SEP 08 1988
4:40 o'clock M.
MARCH FONG EU, Secretary of State
By Linda S. Brewer
Deputy Secretary of State

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

Office of Administrative Law File No: 88-0829-03E



LINDA STOCKDALE BREWER
DIRECTOR

9/8/88

Date

FACE SHEET

EMERGENCY
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached
are true and correct copies of regulations
adopted, amended or repealed by this agency
and that the information specified on this Face
Sheet is true and correct.

1000 AUG 3

OFFICE OF
ADMINISTRATION
ENDORSED

APPROVED FOR FILING

SEP 08 1988

Office of Administrative Law

For use of Office of Adm Law

State Department of Social Services

(AGENCY)

Lil S. McNeil

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date:

8-25-88

RDB #0788-30

FILED

In this office of the Secretary of State
of the State of California

SEP 08 1988

At 4:40 o'clock P.M.

MARCH FONG EU, Secretary of State

By *Inez L. S. McNeil*

Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING
(See instructions)

TITLE

TELEPHONE

Rosalie Clark, Chief, Regulations Development Bureau (916) 445-0313

2. Type of filing, (check one) 30-day Review Emergency Certificate of Compliance
(Complete Part 4 below)

Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)

Nonsubstantive changes with nonregulatory effect Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

SECTIONS ADOPTED:

42-761.5

SECTIONS AMENDED:

42-720.7 and 42-761.33

SECTIONS REPEALED:

None

b. The following sections listed in 3a contain modifications to the text originally made available to the public:

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

prior to the emergency adoption
 within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

No Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

No Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

Fair Political Practices Commission (Include FPPC approval stamp) Building Standards Commission (Attach approval)

State Fire Marshall (Attach approval) Department of Finance (Attach properly signed Std. 399)

Other

(SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER b. DATE OF FINAL AGENCY ACTION c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))

Not Applicable

August 25, 1988

Not Applicable

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

a. Effective 30th day after filing with the Secretary of State.

b. Effective upon filing with the Secretary of State.

c. Effective on _____ as required or allowed by the following statute(s): _____

d. Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)

Attach request demonstrating good cause for early effective date. Request subject to OAL approval.

e. Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.



LINDA S. McMAHON
Director

PUBLIC NOTICE

October 26, 1988 Public Hearing

ITEM #4

GAIN Program Evaluation - Random Selection Sampling Method

CHAPTERS

Manual of Policies and Procedures (MPP), Division 42, Sections 42-720.73, 42-761.33 and 42-761.5.

INFORMATIVE DIGEST

These regulations would establish procedures for applying a standard sampling method in order to allow for the evaluation of the GAIN Program as required by Welfare and Institutions Code Section 11320.2(i) (Assembly Bill 2580, Chapter 1025, Statutes of 1985). The regulations would specify that certain GAIN registrants who are members of an evaluation control group will not receive GAIN Program services for the duration of the evaluation unless they move to a non-evaluation county. The regulations would additionally specify that control group members must receive adequate notice that they are members of such a group. The evaluation design approved by the Department makes use of a random selection sampling method to assign GAIN participants to an experimental group or a control group. This is the only method available that can accurately assess the program's impact.

COST ESTIMATE

1. Costs and Savings to State Agencies: None.
2. Costs and Savings to Local Agencies or School Districts: None.
3. Nondiscretionary Costs or Savings to Local Agencies: None.
4. Federal Funding to State Agencies: None.

LOCAL MANDATE STATEMENT

These regulations do constitute a mandate on local agencies but not on local school districts. There are no state mandated local costs in this order that require reimbursement pursuant to Section 17550 of the Government Code, because there are no costs associated with these regulations.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES AND OF ALTERNATIVES CONSIDERED

The Department finds that these regulations will have no cost impact on private persons or businesses.

SDSS finds that no alternative considered by the department would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected persons.

SMALL BUSINESS IMPACT STATEMENT

The Department finds that these regulations will have no significant adverse fiscal impact on small businesses.

AUTHORITY AND REFERENCE CITATIONS

These regulations are proposed for adoption under the authority granted in Welfare and Institutions Code Sections 10553, 10554 and 10604(b). These regulations implement and make specific Welfare and Institutions Code Sections 10554 and 11320.2(i).

EMERGENCY STATEMENT

These regulations are to be adopted on an emergency basis and filed with the Secretary of State. In order to provide an opportunity for interested persons to submit comments or arguments regarding the regulations, a public hearing has been scheduled in accordance with Government Code Section 11346.4.

FINDING OF EMERGENCY

These regulations are being implemented on an emergency basis for the immediate preservation of the public peace, health and safety, or general welfare, within the meaning of Government Code Section 11346.1.

DESCRIPTION OF SPECIFIC FACTS WHICH CONSTITUTE THE EMERGENCY
The following facts constitute the emergency.

1. The Greater Avenues for Independence Act of 1985 (GAIN) requires that the State Department of Social Services undertake an evaluation to produce information on program costs, caseload movement, and participant outcomes. It is the intent of the Legislature that the public be informed of the effectiveness of the use of public resources in reducing welfare dependency and increasing employability of GAIN registrants.
2. The Department, after lengthy negotiations, has contracted with Manpower Demonstration Research Corporation (MDRC) to conduct the evaluation. The evaluation design makes use of the random selection sampling method to assign GAIN participants to an experimental group or a control group. Members of the experimental group are subject to mandatory program participation requirements, while members of the control group receive no GAIN services for the duration of the evaluation. Although these individuals will not receive GAIN services, they are free to seek out other education, training and employment services available in the community. At a later date, a comparison will be made between the two groups on welfare status, earnings and employment to determine the effectiveness of GAIN in reducing welfare dependency and increasing employment potential. This is the only method available that can accurately assess the effectiveness of the GAIN Program.
3. Current regulations do not specify that GAIN registrants assigned to an evaluation control group are to be deferred from mandatory program participation requirements. Current regulations also lack instructions on how counties are to select and notify control group members, and under what circumstances an individual will be removed from the control group.
4. Conducting the evaluation without the necessary regulations would cause confusion among Aid to Families with Dependent Children (AFDC) recipients about their GAIN participation requirements and hinder and delay the Department's evaluation efforts.

5. The GAIN Program will be implemented statewide by September 26, 1988. The control group regulations must be in place by that time, so that a timely and comprehensive study may be achieved.
6. The nonemergency rulemaking process set forth in the Administrative Procedure Act is sufficiently lengthy that it would delay the evaluation for a year, preventing the Department from preparing a timely and accurate assessment of the effectiveness of the GAIN Program, as required by Welfare and Institutions Code Section 11320.2(i).
7. Therefore, in order to comply with Welfare and Institutions Code Section 11320.2(i), to insure that a meaningful evaluation of the GAIN Program is prepared, and to provide taxpayers and the Legislature with timely information concerning cost effectiveness of the GAIN Program, these regulations are adopted as an emergency measure, to become effective immediately.

INFORMATIVE DIGEST

These regulations would establish procedures for applying a standard sampling method in order to allow for the evaluation of the GAIN Program as required by Welfare and Institutions Code Section 11320.2(i) (Assembly Bill 2580, Chapter 1025, Statutes of 1985). The regulations would specify that certain GAIN registrants who are members of an evaluation control group will not receive GAIN Program services for the duration of the evaluation unless they move to a non-evaluation county. The regulations would additionally specify that control group members must receive adequate notice that they are members of such a group. The evaluation design approved by the Department makes use of a random selection sampling method to assign GAIN participants to an experimental group or a control group. This is the only method available that can accurately assess the program's impact.

COST ESTIMATE

1. Costs and Savings to State Agencies: None.
2. Costs and Savings to Local Agencies or School Districts: None.
3. Nondiscretionary Costs or Savings to Local Agencies: None.
4. Federal Funding to State Agencies: None.

LOCAL MANDATE STATEMENT

These regulations do constitute a mandate on local agencies but not on local school districts. There are no state mandated local costs in this order that require reimbursement pursuant to Section 17550 of the Government Code, because there are no costs associated with these regulations.

AUTHORITY AND REFERENCE CITATIONS

These regulations are proposed for adoption under the authority granted in Welfare and Institutions Code Sections 10553, 10554 and 10604(b). The regulations implement and make specific Welfare and Institutions Code Sections 10554 and 11320.2(i).

INITIAL STATEMENT OF REASONS

a) Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulations Are Intended to Address

Subsequent to the implementation of the GAIN Program in 1986, the Department contracted with the Manpower Demonstration Research Corporation (MDRC) to evaluate the effectiveness of the program as specified in the statute (Welfare and Institutions Code Section 11320.2(i)). The evaluation design approved by the Department makes use of a random selection sampling method to assign GAIN participants to an experimental group or a control group. This is the only method available that can accurately assess the program's impact. Members of the experimental group are subject to mandatory program participation requirements, while members of the control group receive no GAIN services for the duration of the evaluation period. Data from both groups will be compared and analyzed for the evaluation.

Current regulations do not specify that GAIN registrants assigned to be members of the control group are deferred from mandatory program participation. These regulations will specify procedures for handling GAIN participants assigned to the control group.

b) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 42-720.73

Specific Purpose:

This handbook section is being added to specify that counties which have made an agreement to be involved in the evaluation study will follow procedures specified in the agreement.

Factual Basis:

This handbook section is being included to indicate that the uniform procedures to be followed by counties assigning GAIN registrants or to a control group are specified in the agreement between the counties and the Department.

Section 42-720.731

Specific Purpose:

This section is being adopted to require that the county assign to the evaluation control group those GAIN registrants selected by the organization with which the Department has contracted.

Factual Basis:

This requirement is necessary in order to specify the manner of selecting the representative population sample for the evaluation.

Section 42-720.731(a)

Specific Purpose:

This handbook section is being added to specify that control group members will be assigned using Department-approved standard statistical sampling methods.

Factual Basis:

The contract organization which selects control group members is required to use the statistical sampling method approved by the Department. The purpose of the handbook section is to clarify the basis upon which the contract organization may select control group members.

Section 42-720.732

Specific Purpose:

This section is being adopted to make it clear that notice to control group members must meet the adequate notification requirements of MPP Sections 22-001(a)(1) and 22-021.

Factual Basis:

Because the GAIN Program is not an aid program for which an individual files an application, counties may not recognize the fact that denial of GAIN services constitutes an adverse action requiring adequate notice pursuant to MPP Sections 22-001(a)(1) and 22-021.

This revision is necessary to insure that control group members are properly informed that they will not receive full GAIN services during the evaluation period.

Section 42-761.33

Specific Purpose:

This section has been amended to include deferral on the basis of control group membership as part of the appraisal procedures.

Factual Basis:

This requirement is necessary in order to make it clear that assignment to an evaluation control group should take place during the appraisal process.

Section 42-761.5

Specific Purpose:

This section is being adopted in order to establish the requirement that GAIN registrants who are assigned to an evaluation control group are deferred from mandatory program participation.

Factual Basis:

This provision is necessary because, unless deferred, mandatory GAIN registrants must participate in GAIN activities or suffer a loss of their AFDC benefits. Since control group members will not receive GAIN services or be given the opportunity to participate in GAIN activities, they must receive deferral status so that their AFDC benefits will continue uninterrupted.

Sections 42-761.51 and .511

Specific Purpose:

These sections are being adopted to establish the requirement that control group members shall not receive GAIN services for the duration of the evaluation period except if they move out of the county in which they have been assigned as control group members.

Factual Basis:

These requirements are necessary in order to select a standard statistical sample with which to evaluate the GAIN Program as required by statute. The research design requires that individuals be tracked over a period of three years. The objective is to determine what happens to individuals who do not receive GAIN services. Without this requirement, the Department would be prevented from selecting a representative

population sample for evaluation purposes. However, it is not feasible to continue tracking those individuals who move into a nonevaluation county.

c) Identification of Documents Upon Which Department Is Relying

(1) Welfare and Institutions Code Section 11320.2(i)

d) Testimony and Response

[To be completed after the Public Hearing.]

e) Local Mandate Statement

These regulations do constitute a mandate on local agencies but not on local school districts. There are no state mandated local costs in this order that require reimbursement pursuant to Section 17550 of the Government Code, because there are no costs associated with these regulations.

f) Statement of Potential Cost Impact on Private Persons or Businesses and of Alternatives Considered

The Department finds that the regulations will have no cost impact on private persons or businesses.

SDSS finds that no alternative considered by the Department would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected persons.

g) Small Business Impact Statement

The Department finds that these regulations will have no significant adverse fiscal impact on small businesses.

Amend Section 42-720.7 to read:

42-720 THE GAIN COUNTY PLAN (Continued)

42-720

.7 Data Collection (Continued)

HANDBOOK

•73 Counties that make an agreement with the Department to assign GAIN registrants to an evaluation control group must comply with the procedures set forth in the agreement throughout the duration of the study for which the control group is established.

•731 The county shall assign to the evaluation control group those GAIN registrants selected for the control group by the organization with which the Department has contracted to perform the study.

HANDBOOK

(a) The selection process will be based upon a standard statistical sampling method approved by the Department.

•732 The county shall give members of an evaluation control group adequate notification that they are members of such a group, per MPP Sections 22-001(a)(1) and 22-021.

Authority Cited: Sections 10553, 10554, and 10604(b) of the Welfare and Institutions Code.

Reference: Sections 10554 and 11320.2(i) of the Welfare and Institutions Code.

Amend Section 42-761.33 to read:

42-761 GAIN REGISTRANT APPRAISAL (Continued)

42-761

.3 Appraisal activities shall include the following:

.33 Determine if the registrant should be deferred from participation based upon the criteria specified in Sections 42-761.4 or .5 below.

Authority Cited: Sections 10553, 10554, and 10604(b) of the Welfare and Institutions Code.

Reference: Section 11320.2(i) of the Welfare and Institutions Code.

Adopt Section 42-761.5 to read:

42-761 GAIN REGISTRANT APPRAISAL (Continued)

42-761

- .5 Registrants shall be deferred from mandatory participation requirements if they are assigned to a control group pursuant to Section 42-720.731.
- .51 Such registrants shall not receive GAIN services for the duration of the evaluation period, except under the following condition:
 - .511 The registrant moves to a county that has not established or is not establishing such control groups.

Authority Cited: Sections 10553, 10554, and 10604(b) of the Welfare and Institutions Code.

Reference: Section 11320.2(i) of the Welfare and Institutions Code.

SEP 08 1988

At 9:40 a'clock A.M.
WEN-CHI FONG EU, Secretary of State
Deputy Secretary State

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 88-0830-01E



LINDA STOCKDALE BREWER
DIRECTOR

Date

88-0812-05 N

(See Instructions on Reverse)

RDB #0888-32

FILED

In this office of the Secretary of State
of the State of California

SEP 1 2 1988

At 4:35 o'clock P. M.
MARCH FONG EU, Secretary of State
By Janet L. Smith
Deputy Secretary of State

1988 AUG 12

OFFICE OF
ADMINISTRATIVE LAW

EX-02833
APPROVED FOR FILING
SEP 1 2 1988

Office of Administrative Law
For use of Office of Adm Law

FACE SHEET

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

State Department of Social Services

(AGENCY)

Lil S. Michael

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 8/10/88

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See Instructions)	TITLE	TELEPHONE	
Rosalie Clark, Chief, Regulations Development Bureau 445-0313			
2. Type of filing, (check one)	<input type="checkbox"/> 30-day Review	<input type="checkbox"/> Emergency	<input type="checkbox"/> Certificate of Compliance (Complete Part 4 below)
<input type="checkbox"/> Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)			
<input checked="" type="checkbox"/> Nonsubstantive changes with nonregulatory effect <input type="checkbox"/> Printing Error Correction			
3. a. Specify California Administrative Code title and sections as follows:	SECTION ADOPTED:		
Title <u>MPP</u>	SECTION AMENDED: <u>42-807, 44-207.423, 44-211.513</u>		
SECTION REPEALED:			
b. The following sections listed in 3a contain modifications to the text originally made available to the public:			
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)			
<input type="checkbox"/> prior to the emergency adoption			
<input type="checkbox"/> within 120 days of the effective date of the emergency adoption of the above-referenced regulations.			
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?			
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, if yes, give date(s) of prior submittal(s) to OAL:			
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?			
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, if yes, give date statement was submitted to OAL			
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)			
<input type="checkbox"/> Fair Political Practices Commission (Include FPPC approval stamp) <input type="checkbox"/> Building Standards Commission (Attach approval)			
<input type="checkbox"/> State Fire Marshall (Attach approval) <input type="checkbox"/> Department of Finance (Attach properly signed Std. 399)			
Other _____ (SPECIFY AGENCY)			
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER <u>N/A</u>	b. DATE OF FINAL AGENCY ACTION <u>August 10, 1988</u>	c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) <u>N/A</u>	

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

a. Effective 30th day after filing with the Secretary of State.
 Effective upon filing with the Secretary of State.
b. Effective on _____ as required or allowed by the following statute(s): _____
 Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
e. Effective on 10/1/88 (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.

Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.

Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)

b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).

Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).

Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.

Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

a. Fire and panic safety regulations (Govt. Code Sec. 11342.3.).

b. Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).

c. Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).

Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.

Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.

b. Provide the date on which the regulatory agency adopted the regulatory changes.

c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.

Part 9. Effective Dates — check one of the following:

a. A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.

b. An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.

c. If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).

d. If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.

e. If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.*
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

Linda S. McMahon

LINDA S. McMAHON
Director

Amend MPP 42-807 to read:

42-807 GOOD CAUSE CRITERIA FOR RCA GAIN PARTICIPANTS 42-807

.1 All good cause criteria specified in Section 69-20869-4 shall apply. Good cause criteria specified in Sections 42-782 and 42-783 shall also apply except for Section 42-783.1(m).

Amend MPP 44-207.423 to read:

44-207 INCOME ELIGIBILITY (Continued)

44-207

.4 Treatment of Lump Sum Income (Continued)

.42 Lump Sum Income Computation (Continued)

.423 If there is a remainder from this division, the remainder shall be counted as income in the month following the end of the period of ineligibility in Section 44-207.422 above. (See Section 44-102(d).) This remainder shall not be counted as income in any other month.

Amend MPP 44-211.513 to read:

44-211 SPECIAL NEEDS IN AFDC (Continued)

44-211

.5 Homeless Assistance (Continued)

.51 General (Continued)

.513 Although an AU may be considered homeless, in accordance with the definition in MPP 44-211.5511, a homeless assistance payment shall not be issued to an AU if the CWD establishes that the AU has shelter at no cost.

SEP 12 1988

4:35 o'clock

MARY FONG EU, Secretary

By Linda S. Brewer

M. of State

Deputy Secretary

of State

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

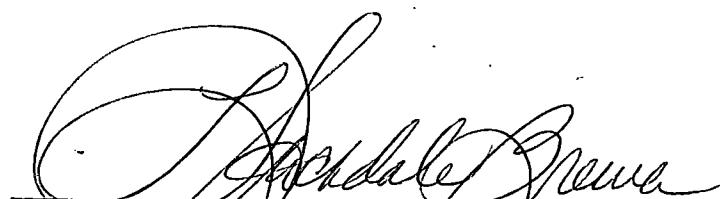
APPROVAL

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

OAL File No: 88-0812-05N

"Nonsubstantive"



LINDA STOCKDALE BREWER
DIRECTOR

9-12-88

Date

NONSUBSTANTIVE
FACE SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

1988 AUG 12

OFFICE
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING
SEP 1 1988

For use of Office of Adm Law

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

State Department of Social Services

(AGENCY)


AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date:

8-11-88

FILED
In this office of the Secretary of State
of the State of California

SEP 12 1988
A:4:35 o'clock p.m.
MARCH FONG EU, Secretary of State
By Bella S. Michael
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)	TITLE	TELEPHONE
Rosalie Clark	Chief, Regulations Development Bureau	445-0313
2. Type of filing, (check one)	<input checked="" type="checkbox"/> 30-day Review <input type="checkbox"/> Emergency	<input type="checkbox"/> Certificate of Compliance (Complete Part 4 below)
<input type="checkbox"/> Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below) <input checked="" type="checkbox"/> Nonsubstantive changes with nonregulatory effect <input type="checkbox"/> Printing Error Correction		
3. a. Specify California Administrative Code title and sections as follows:		
SECTIONS ADOPTED:		
Title <u>MPP</u>	SECTIONS AMENDED: <u>63-102, 63-104, 63-201, 63-202, 63-300, 63-402, 63-501,</u> <u>63-502, 63-503, 63-605, 63-801.</u>	
SECTIONS REPEALED:		
b. The following sections listed in 3a contain modifications to the text originally made available to the public:		
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)		
<input type="checkbox"/> prior to the emergency adoption <input type="checkbox"/> within 120 days of the effective date of the emergency adoption of the above-referenced regulations.		
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?		
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, if yes, give date(s) of prior submittal(s) to OAL: _____		
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?		
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, if yes, give date statement was submitted to OAL: _____		
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)		
<input type="checkbox"/> Fair Political Practices Commission (Include FPPC approval stamp) <input type="checkbox"/> Building Standards Commission (Attach approval) <input type="checkbox"/> State Fire Marshall (Attach approval) <input type="checkbox"/> Department of Finance (Attach properly signed Std. 399) <input type="checkbox"/> Other _____		
(SPECIFY AGENCY)		
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER N/A	b. DATE OF FINAL AGENCY ACTION August 11, 1988	c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c) N/A
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)		
a. <input type="checkbox"/> Effective 30th day after filing with the Secretary of State. b. <input checked="" type="checkbox"/> Effective upon filing with the Secretary of State. c. <input type="checkbox"/> Effective on _____ as required or allowed by the following statute(s): d. <input type="checkbox"/> Effective on _____ (Designate effective date <i>earlier than</i> 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).) Attach request demonstrating good cause for early effective date. Request subject to OAL approval. e. <input type="checkbox"/> Effective on _____ (Designate effective date <i>later than</i> the normal effective date for the type of order filed.)		

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
 - b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
 - a. Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - b. Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - c. Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).

Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
 - b. Provide the date on which the regulatory agency adopted the regulatory changes.
 - c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
 - a. A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
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 - c. If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citation(s).
 - d. If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - e. If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.*
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.



LINDA S. McMAHON
Director

Amend MPP Section 63-102 to read:

63-102 DEFINITIONS (Continued)

63-102

•P (Continued)

(2) 4 "Photo Identification Card System" is one which meets all the requirements of Section 63-504.98. The photo identification card system may utilize a single identification card which meets the requirements of Sections 63-504.57 and 63-504.98 or two identification cards which together meet the requirements of these sections.

Amend MPP Section 63-104 to read:

63-104 COUPONS AS OBLIGATIONS OF THE UNITED STATES, 63-104
CRIMES AND OFFENSES (Continued)

.3 Security for Coupons and ATPs

All individuals, partnerships, corporations, or other legal entities including county agencies and their delegates (referred to in this paragraph as "persons") having custody, care and control of coupons and ATPs shall, at all times, take all precautions necessary to avoid acceptance, transfer, negotiation, or use of spurious, altered, or counterfeit coupons and ATPs and to avoid any unauthorized use, transfer, acquisition, alteration or possession of coupons and ATPs. These persons shall safeguard coupons and ATPs from theft, embezzlement, loss, damage, or destruction, as specified in Sections 63-601.3, 63-704-291.42 and 63-7085.2.

Amend MPP Section 63-201 to read:

63-201 GENERAL TERMS AND CONDITIONS (Continued)

63-201

.6 Retention of Records

CWDs shall retain all Food Stamp Program records in an orderly fashion, for audit and review purposes, for a period of three years from the month of origin of each record. The CWD shall retain fiscal records and accountable documents for three years from the date of fiscal or administrative closure. Fiscal closure means that obligations for or against the Federal Government have been liquidated. Administrative closures means that the CWD has determined and documented that no further action to liquidate the obligation is appropriate. Fiscal records and accountable documents include, but are not limited to claims and documentation of lost benefits. Retention methods for ATP cards are provided in 63-708.1.

Amend MPP Section 63-202 to read:

63-202 PROGRAM ADMINISTRATION AND PERSONNEL
REQUIREMENTS (Continued)

63-202

.5 Forms

The CWD shall use the forms prescribed in the Food Stamp Manual to collect, document, and/or report Food Stamp Program information. Any modification or substitution of forms prescribed in the Food Stamp Manual shall be approved by SDSS-Food Stamp Program Management Branch prior to use. Procedures for approval are contained in Handbook Section 63-1250.

Amend MPP Section 63-300 to read:

63-300 APPLICATION PROCESS (Continued)

63-300

.4 Interviews (Continued)

.43 Waiving the Interview (Case-by-case)

The CWD shall waive the office interview on a case-by-case basis for any household which is unable to appoint an authorized representative and which has no household members able to come to the food stamp office because of transportation difficulties or similar hardships which the CWD determines warrants a waiver of the office interview. These hardship conditions include, but are not limited to: illness, care of a household member, prolonged severe weather, or work hours which preclude an in-office interview. The CWD shall determine if the transportation difficulty or hardship reported by a household warrants a waiver of the office interview and shall document in the case file why a request for a waiver was granted or denied.

.44 (Continued)

.45 (Continued)

.5 Verification (Continued)

.51 (Continued)

.516 Continuing Shelter Costs

Those shelter costs specified in Section 63-502.35, other than utilities, shall be verified if allowing the expense could potentially result in a deduction. However, verification shall be accomplished if the amount of rent is questionable and there is strong indication that the expense could affect the amount of the deduction. Once this verification has been accomplished, the EW is not permitted to reverify this expense unless the household has moved, reported an increase in the amount of its shelter costs that would potentially affect the amount of the deduction (in which case only those changed individual costs would be reverified), or unless questionable as defined in Section 63-300.523.

a. Utility Expenses

The CWD shall verify a household's utility expenses if the household wishes to claim its actual utility expense. If the household lives with and shares utility expenses with others and wishes to claim its actual utility expense, the CWD shall verify the actual utility expenses paid by the household. If the household's actual utility expenses cannot be verified before the 30 days allowed to process the application expire, the CWD shall use the SUA, provided the household is entitled to use the SUA as specified in Section 63-502.3652. If the household wishes to claim expenses for an unoccupied home, the CWD shall verify the household's actual utility expenses for the unoccupied home in every case and shall not use the SUA. Verification of utility costs of an unoccupied home outside the county is the responsibility of the household (see Section 63-502.3541(d)).

Amend MPP Section 63-402 to read:

63-402 HOUSEHOLD CONCEPT (Continued)

63-402

.3 Boarders (Continued)

.33 The following persons shall not be considered boarders:

- (a) Children under 18 years of age under the parental control, as defined in Section 63-102 qqq, of a member of the household.
- (b) (Continued)
- (c) (Continued)
- (d) (Continued)

.4 Residents of Institutions

Individuals shall be considered residents of an institution when the institution provides them with the majority of their meals as part of the institution's normal services. Residents of institutions are not eligible for participation in the Food Stamp Program. The following individuals shall not be considered as residents of institutions: (Continued)

.43 Disabled or blind individuals who are residents of group living arrangements as defined in Section 63-102~~ffff~~^q and who receive benefits under Title II of the Social Security Act.

Amend MPP Section 63-501 to read:

63-501 RESOURCE DETERMINATIONS (Continued)

63-501

.3 Exclusions from Resources

In determining the resources of a household, only the following shall be excluded: (Continued)

(h) Resources whose which have a cash value that is not accessible to the household, such as but not limited to, irrevocable trust funds, security deposits on rental property or utilities, property in probate, and real property which the household is making a good faith effort to sell at a reasonable price and which has not been sold. Verification if questionable, as defined in Section 63-300.53, shall be obtained through a collateral contact or documentation. Any funds in a trust or transferred to a trust, and the income produced by that trust, shall be considered inaccessible to the household if all of the following are met; (Continued)

.8 Resources of Excluded Household Members

The resources of excluded household members, as defined in Sections 63-402.221, .222, .223, and .224, shall be handled in accordance with Section 63-503.44. The income and resources of excluded household members, as defined in Sections 63-402.225 and ~~.225~~, ~~.226~~ and ~~.227~~, shall be handled in accordance with Section 63-503.45.

Amend MPP Section 63-502 to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS

63-502

.1 Income Definition (Continued)

.14 (Continued)

.141 (Continued)

(b) Assistance payments from programs which require, as a condition of eligibility, the actual performance of work without compensation other than the assistance payments themselves, shall be considered unearned income, except for special allowances excluded under Section 63-502.2~~f~~(f)(1). (Continued)

.2 Income Exclusions. Only the following items shall be excluded from household income: (Continued)

(h) The earned income (as defined in Section 63-502.13) of children who are members of the household, who are students at least half time, and who have not attained their 18th birthday. The exclusion shall continue to apply during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment will resume following the break. If the child's earnings or amount of work performed cannot be differentiated from that of other household members, the total earnings shall be prorated equally among the working members and the child's pro rata share shall be excluded. Individuals are considered children for purposes of this provision if they are under the parental control, as defined in Section 63-102~~q~~(p) of another household member.

Amend MPP Section 63-503 to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY
AND BENEFIT LEVELS (Continued)

63-503

.4 Households with Special Circumstances (Continued)

.49 (Continued)

.492 (Continued)

(b) Resources

(1) "Resources for households containing sponsored aliens" shall also include that portion of the resources of an alien's sponsor and the sponsor's spouse (if living with the sponsor) which has been deemed to be those of the alien, unless the sponsored alien is otherwise exempt from this provision in accordance with Section 63-503.491.

Amend MPP Section 63-605 to read:

63-605 COUPON/ATP REPLACEMENTS (Continued)

63-605

.3 CWD Responsibilities (Continued)

.35 (Continued)

.355 Documentation exists indicating the likelihood of fraud intentional Program violation; such as a match between the signature in the original ATP that had been transacted and the signature on the replacement request, or the issuance unit has noted the recipient's correct food stamp identification number on an original ATP that has been transacted, unless the household reported its ID stolen.

disapproved

Amend MPP Section 63-801 to read:

63-801 CLAIM AGAINST HOUSEHOLDS (Continued)

63-801

.4 Collecting Claims Against Households and Sponsors of Alien Households (Continued)

.44 (Continued)

.442 If any nonparticipating or participating household against whom collection action has been initiated for repayment of an administrative error claim does not respond to the first DFA 377.7B, additional repayment notices shall be sent at reasonable intervals, such as 30 days, until the household or the sponsor has responded by paying or agreeing to pay the claim (Repayment Agreement, DFA 377.7C), or until the criteria for suspending collection action, as specified in Section 63-801.5, have been met.

SEP 1 2 1988

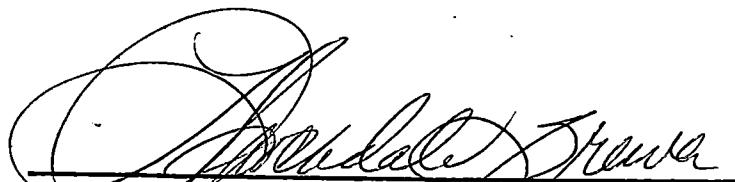
4:35 a.m. M.
MATH FONG EU, Secretary of State
By Linda P.
Deputy Secretary of State

OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

IAL File No: 88-0812-06
(except section 63-605)


LINDA STOCKDALE BREWER
DIRECTOR

9-12-88

Date

FACE SHEET

RE SUBMITTAL

1030 AM 22 SEP 1988
 OFFICE OF
 ADMINISTRATIVE LAW
 ENDORSED
 APPROVED FOR FILING
 SEP 26 1988
 Office of Administrative Law

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

State Department of Social Services

(AGENCY)

Lil S. McNeil
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 8-25-88

For use of Office of Adm Law

FILED

In this office of the Secretary of State
of the State of California

SEP 26 1988
 At 12:50 o'clock P. M.
 MARCH FONG EU, Secretary of State
 By Andrea Weyman
 Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)	TITLE	TELEPHONE
Rosalie P. Clark	Chief, Regulations Development Bureau	445-0313
2. Type of filing, (check one)	<input checked="" type="checkbox"/> 30-day Review <input type="checkbox"/> Emergency	<input type="checkbox"/> Certificate of Compliance (Complete Part 4 below)
	<input type="checkbox"/> Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)	
	<input type="checkbox"/> Nonsubstantive changes with nonregulatory effect	<input type="checkbox"/> Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:		
SECTIONS ADOPTED: Title 22 89521, 89718, 89721, 89852		
SECTIONS AMENDED: 89502, 89530, 89533, 89535, 89543, 89613, 89618, 89638, 89700, 89703, 89720, 89726, 89730, 89907, 89923, 89927, 89929		
SECTIONS REPEALED: 89903, 89922, 89949, 89950		
b. The following sections listed in 3a contain modifications to the text originally made available to the public: 89521, 89535, 89543, 89613, 89700, 89718, 89720, 89721, 89852, 89923, 89929		
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)		
<input type="checkbox"/> prior to the emergency adoption		
<input type="checkbox"/> within 120 days of the effective date of the emergency adoption of the above-referenced regulations.		
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?		
<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes, if yes, give date(s) of prior submittal(s) to OAL: March 23, 1988		
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?		
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, if yes, give date statement was submitted to OAL		
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Other _____ (SPECIFY AGENCY)		
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER April 3, 1987	b. DATE OF FINAL AGENCY ACTION August 25, 1988	c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) Feb. 19 -- March 7, 1988 Nov. 20 -- Dec. 8, 1988, July 29 -- Aug. 12, 1988
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)		
a. <input checked="" type="checkbox"/> Effective 30th day after filing with the Secretary of State.		
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c. <input type="checkbox"/> Effective on _____ as required or allowed by the following statute(s): _____.		
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DELEGATED AUTHORITY ORDER

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LINDA S. McMAHON
Director

(1) Amend Section 89502 to read:

Article 1. Policy and Definitions

89502 DEFINITIONS

89502

(a) In addition to the definitions included in Health and Safety Code Sections 1771 and 1773-5, the following apply:

- (1) "Accommodation Fee" means the same as Entrance Fee, see Health and Safety Code Section 1774(f).
- (2) "Accommodation Lease" means the same as Life Lease.
- (3) "Aged Person" means a person over 62 years of age, see Health and Safety Code Section 1502.
- (4) "Cancellation Period" (for refund of Real Property); see Rescission, right of.
- (4) "Cancellation During Trial Residence Period" see Health and Safety Code Section 1779.6.
- (5) "Deposit Subscription" means the installment payment of the accommodation fee made by a subscriber to a facility during development or construction pursuant to an approved permit to sell deposit subscriptions.
- (5) "Disaffirmance, Right of" see Revision, Right of.
- (6) "Filing Fee" means the same as Processing Fee.
- (7) "Legal Entity" means a sole proprietorship, corporation, partnership, association, joint venture or other organization specifically designated as responsible for the facility's policy and operation.
- (8) "Life Lease" means a landlord/tenant relationship wherein the tenant obtains only the right to possess a defined living unit for life. In a life lease there is no obligation, or intent, to provide care and services to the tenant at any time, present or future.
- (9) "Per Capita Cost" means a facility's operating expenses divided by the average number of residents. Depreciation is excluded when computing cash per capita cost for calculating reserve requirements.

(10) "Personal Care Unit" means a living unit within a physical area of a facility specifically designed to provide additional support services to residents who require higher levels of living assistance, ongoing personal care as defined in Health and Safety Code Section 1569.2.

"Processing Fee" means an advance payment by the transferor to cover administrative costs of processing the application of a prospective resident.

(11) "Rescission, Right of" see Health and Safety Code Section 1771.2.

Note that the right of rescission is effective within a 90 day cancellation period which might not correspond with the 90 day trial residence period.

(12) "Refund Reserve" means the amount calculated and deposited in a special trust fund, in accordance with Health and Safety Code Section 1775.5 to ensure the availability of funds for specified refunds of entrance fees.

(13) "Subscriber" means the person who has applied to be a resident in a facility under development or construction, who has entered into a deposit subscription agreement.

Authority Cited: Section 1781, Health and Safety Code.

Reference: Sections 1569.2, 1771, 1775.5, and 1779.6, Health and Safety Code.

(2) Adopt new Section 89521 to read:

89521 INSURANCE REQUIREMENTS FOR ESCROWED FUNDS 89521

Escrowed transferors' funds shall be placed in federally insured accounts. The amount of insurance provided must be sufficient to protect all escrowed funds. Additional escrow agents will be required to hold portions of deposit subscriptions or entrance fees in excess of the current limits on federal insurance.

Authority Cited: Section 1781, Health and Safety Code.

Reference: Sections 1771(k), 1773.5, and 1781, Health and Safety Code.

(3) Rerumber Section 89911 to 89530, and amend new Section 89530 to read:

8994-530 ESCROW AGREEMENT FORM

8994-530

The Department shall provide a sample Escrow Agreement Form on request.

(a) The escrow agreement shall provide for:

- (1) The amount of the processing fee, which is to be excluded from the escrow account, if the processing fee is paid with the deposit;
- (2) Deposit of funds in the escrow account;
- (3) Progress reports to the Department;
- (4) Investment of escrow account funds;
- (5) Release of escrow account funds as specified in Section 899543;

(b) The escrow agreement shall state that the escrow agent for the project shall neither be a lender nor have fiduciary responsibilities to lenders and/or bondholders for that project.

Authority Cited: Section 1781, Health and Safety Code.

Reference: Sections 1773.5, and 1780.6, Health and Safety Code.

(4) Renumber Section 89933 to 89533, and amend new Section 89533 to read:

899533 PROGRESS REPORTS BY ESCROW AGENT

899533

Regular progress reports at least quarterly but preferably on a monthly basis, shall be sent by the escrow agent directly to the Department. Reports shall show the name and address of each subscriber or resident, the designation of the living unit being provided, the total entrance fee for the unit, amounts deposited or refunded (in a separate column for each payment prescribed in the deposit subscription agreement or contract form), the unpaid balance of the entrance fee, the full value (amount) of his/her subscription, the amount deposited, the amount and the name of any withdrawing subscribers (refunds), and the current balance in the escrow account.

Authority Cited: Section 1781, Health and Safety Code.

Reference: Sections 1773.5, 1773.7, 1773.8, 1773.9, and 1781, Health and Safety Code.

(5) Rerumber Section 89935 to 89535, and amend new Section 89535 to read:

899535 EARNINGS FROM FUNDS IN ESCROW

899535

- (a) As instructed by the permit holder provider, escrowed funds may be invested as provided under Sections 89842 and 89844, in the manner approved for liquid assets in Health and Safety Code Section 1775(f)(1) but
- (b) Earnings may shall not be released except upon approval of the Department, to the permit holder.
- (c) Departmental approval of release of earnings from funds in escrow shall be based upon an assessment that funds remaining in the escrow account will be sufficient to pay refunds and interest promised to all transferors, and all escrow agent administrative costs.

Authority Cited: Section 1781, Health and Safety Code.

Reference: Sections 1773.5, 1773.9 and 1775, Health and Safety Code.

(6) Renumber Section 89943 to 89543, and amend new Section 89543 to read:

899543 RELEASE OF FUNDS FROM ESCROW

899543

fat The escrow agent shall pay refunds to subscribers who terminate~~s~~ upon written notice from the permit holder in accordance with the agreements.

fbt The Department shall instruct the escrow agent to release escrowed deposit subscriptions or ~~accommodation~~ entrance fees to the permit holder provider when all of the following requirements are met:

(a)fat The requirements stated in Health and Safety Code Section 1773.9 ~~1773.5~~. In applying such requirements:

fat The architect's statement shall be used to determine construction progress.

fat "Subscribed to" is determined by compliance with payment terms of the deposit subscription agreement form as of the present percentage of completion.

fat In calculating 50 percent subscribed to skidded nursing intermediate and personal care units shall be excluded from the total available units.

(b)fat Construction is proceeding in accordance with licensing requirements at the time of release have been met.

(c)fat The Department, in consultation with the Life Care Contract Advisory Board, has determined that there has been substantial compliance with projected annual income statements which served as a basis for issuance of the permit to sell deposit subscriptions or the certificate of authority.

fat If the requirements of Subsection (b) have been met except for substantial compliance with projected annual income statements which served as a basis for issuance of the permit to sell deposit subscriptions, the provider or permit holder shall submit a revised financial plan pursuant to Health and Safety Code Section ~~1773.5~~. The Department will authorize release of deposit subscriptions or accommodation fees from escrow when all of the following conditions are met:

- (f) The revised financial plan is approved by the Department and:
- (A) Monthly reports indicate ongoing compliance with the approved plan and:
- (B) Approved assets are available in amounts sufficient to comply with statutory reserve requirements.
- (C) If the requirements of Subsections (B) and (C) have been met except for approved assets sufficient to comply with statutory reserve requirements, the Department will authorize the ongoing release of portions of accommodation fees which are not refundable in case of voluntary withdrawal according to terms of the life care contract form in use, provided that at least 90 days prior to the release of the funds the permit holder or provider has posted a notice approved by the Department pursuant to Health and Safety Code Section 1784(f)(3).

The Department shall authorize release of the remaining deposit subscriptions or accommodation fees from escrow when the criteria of Subsections (B) and (C) have been met.

Authority Cited: Section 1781, Health and Safety Code.

Reference: Sections 1773.6, 1773.9, 1775, 1780, 1781, 1784(a)(3), and 1790, Health and Safety Code.

(7) (Withdrawn)

(8) Amend Section 89613 to read:

89613 APPLICATION FORMS AND ATTACHMENTS

89613

In addition to the provisions of Health and Safety Code Sections 1771.3, 1771.4, 1771.5, 1771.6, 1771.8, 1774, 1773, 1772, 1780, and 1783; and to the extent that the items are not in the Department's possession, the following shall apply:

- (a) Copies of appropriate written licenses or copies of preliminary approvals for licensure, issued by applications which have been submitted to the appropriate licensing agencies, Department of Social Services, Community Care Licensing Division and/or the Department of Health Services, Licensing and Certification Division shall accompany the application.
- (b) Certification, required by Health and Safety Code Section 1771.4, shall be by a CPA or public accountant.
- (c) The requirement of Health and Safety Code Section 1774 shall be met by evidence that insurance or a bond is in effect for at least \$50,000 or the amount of the highest entrance fee, whichever is greater, as of the date of submitting annual audits and reports pursuant to Section 89804. is in force. This requirement is separate from the bonding requirements of the Community Care Licensing regulations.
- (d) Projected annual income statements, as prescribed in Health and Safety Code Section 1771.5, shall cover the entire duration of debt. Prevailing rates of interest, with no increases of revenues and expenses due to inflation shall be used as one set of assumptions.
- (e) A month-by-month statement of projected revenues and expenses during the fill-up period. The statement shall include the number of units projected to be occupied each month for the facility or project phase, and plans for compliance with marketing requirements of Health and Safety Code Sections 1773.5 and 1773.7 as applicable.

Authority Cited: Section 1781, Health and Safety Code.

Reference:

Sections 1569.151, 1770.7, 1771.3, 1771.4,
1771.5, 1771.6, 1771.8, 1773.7, 1773.8, 1774,
1778, 1779, 1780, and 1783, Health and Safety
Code.

(9) Renumber Section 89608 to 89618, and amend new Section 89618 to read:

896018 CHANGES IN CERTIFICATE OF PROVIDER ENTITY

896018

PROVIDER ORGANIZATION OR NAME

See Regulations Section 89517 re prior approval of sale or transfer of a facility. If the provider undergoes an organizational change (e.g., change in structure, separation, merger, etc.) a new application shall be required and a new certificate must be issued by the Department before any life care contracts may be executed by the new entity.

A new application is not required for a corporation name change. If the provider is a corporation which undergoes a name change, the provider shall notify the Department of the name change and the old certificate shall be returned by the corporation for reissuance under the new corporate name.

Authority Cited: Section 1781, Health and Safety Code.

Reference: Sections 1773.5, 1775, 1783, and 1785, Health and Safety Code.

(10) Amend Section 89638 to read:

89638 OBLIGATION TO PERFORM CONTRACTS

89638

The suspension, revocation by the Department, or voluntary return of the Certificate of Authority by the provider does shall not release the provider from obligations assumed at the time the life care contracts were executed.

Authority Cited: Section 1781, Health and Safety Code.

Reference: Sections 1770.7, 1784, 1785, and 1786, Health and Safety Code.

(11) Amend Section 89700 to read:

89700 PRIOR APPROVAL OF CONTRACT FORMS

89700

In addition to The requirements of Sections 1770.7, 1771, 1771.8(o), 1779, 1780, 1789, and other relevant sections of Chapter 10, Division 2 of the Health and Safety Code beginning with Section 1770 (Supervision of Life Care Contracts) and the provisions of this Article shall be the bases for approval by the Department pursuant to Section 1778 of the Health and Safety Code.

(a) The form of any exhibit, addendum or attachment referred to or incorporated by reference in the contract form shall also require the prior approval of the Department. Contract forms approved by the Department shall include, in the same size type as the text of the contract, the following notice at the bottom of the signatory page:

NOTICE

(Date)

This is a life care contract as defined by Section 1771 of Chapter 10 of Division 2 of the California Health and Safety Code. This contract form has been approved by the State Department of Social Services as required by Section 1778. The basis for such approval was a determination that (provider name) has complied with specific requirements of the Statutes and Regulations beginning with Section 89500 of Title 22 of the California Administrative Code. Approval by the Department is neither a guaranty of performance nor an endorsement of contract provisions. Prospective transferors and residents are encouraged to carefully consider the benefits and risks of this contract before signing. You should seek financial and legal advice as needed.

(b) After approval pursuant to this Article, the Department shall forward a copy of each contract to appropriate licensing agencies.

Authority Cited: Section 1781, Health and Safety Code.

Reference: Sections 1770.7, 1771, 1771.8(o), 1778, 1779, 1780, and 1789, Health and Safety Code.

(12) Amend Section 89703 to read:

89703 DESIGNATION OF CONTRACTING PARTIES

89703

- (a) The legal name of the provider shall be shown as one of the contracting parties. The name of the facility may be used in the contract form as part of the address.
- (b) The resident shall be shown as one of the contracting parties.
- (c) If the transferor is someone other than the resident, the transferor shall be separately designated.

Authority Cited: Section 1781, Health and Safety Code.

Reference: Sections 1770.7, 1771(x), 1779(n), and 1789.2, Health and Safety Code.

(13) Adopt new Section 89718 to read:

89718 FINANCIAL DISCLOSURE STATEMENT

89718

For a new provider unable to furnish a current financial statement which will accurately reflect the financial ability of the provider to fulfill the life care contract promises, the requirements of Health and Safety Code Section 1779(c) shall be met by attaching to the life care contract the provider's current certified financial statement, and any supplemental statements that have been submitted to the Department, together with an additional attachment that discloses all of the following:

- (a) That the reserve requirement has not yet been determined or met, but that entrance fees shall be held in escrow until the requirements of Section 89543 have been met;
- (b) That the ability to provide the services promised in the life care contract will depend on successful compliance with the approved financial plan; and,
- (c) The approved financial plan for meeting the reserve requirements.

Authority Cited: Section 1781, Health and Safety Code.

Reference: Sections 1771.4, 1775, 1779(c), 1781, 1784(a)(3), and 1790, Health and Safety Code.

(14) Amend Section 89720 to read:

89720 VOLUNTARY TERMINATION AFTER TRIAL RESIDENCE 89720

The contract form shall specify the length of termination notice to be given to the provider after the trial residence. The agreement shall show the conditions under which any accommodation fee or lump-sum payment will be refunded, and it shall state the time period within which refunds shall be made. Any refunds specified by life care contracts in case of voluntary termination after the trial residence period shall be paid within 90 days after giving the prescribed notice, or 10 days after the resident makes the living unit available to the provider, whichever is later. The rate of amortization for entrance fees shall be subject to approval by the Department.

Authority Cited: Section 1781, Health and Safety Code.

Reference: Sections 1770.7, and 1779(d), Health and Safety Code.

(15) Adopt new Section 89721 to read:

89721 TERMINATION BY DEATH

89721

(a) Death during the trial residence period shall constitute a cancellation which is subject to the provisions of Health and Safety Code Section 1779.3(b) unless a life care contract includes specific provisions otherwise.

(b) Any refunds specified by life care contracts in case of death after the trial residence period shall be paid within 90 days after death or 10 days after the living unit is made available to the provider, whichever is later.

Authority Cited: Section 1781, Health and Safety Code.

Reference: Sections 1770.7, 1779(d), and 1779.3(b), Health and Safety Code.

(16) Rerumber Section 89515 to 89726 and amend new Section 89726 to read:

895+5725 REFUNDS TO RESIDENTS

895+5726

- (a) Refunds for cancellation during the trial residence period shall be made as specified by the notice of cancellation, see Health and Safety Code Sections 1779(f) and 1779.3(h).
- (b) Refunds for voluntary termination after the trial residence period shall be made in accordance with the approved contract terms. See Section 89720.
- (c) Refunds for dismissal after the trial residence period shall be made in accordance with Health and Safety Code Section 1780. In calculating the per capita cost, depreciation of real property improvements, and furnishings may be included and services in-kind (donated services) shall be excluded. Per capita cost shall be calculated for each year of residence, except prior year data may be used to calculate refunds in the year of separation.
- (d) Processing fee. The provider is permitted to retain the processing fee, in addition to an amount equal to the cost of caring for the resident as indicated above.

Authority Cited: Section 1731, Health and Safety Code.

Reference: Sections 1779, 1779.3, and 1780, and 1781, Health and Safety Code.

(17) Amend Section 89730 to read:

89730 CHANGES IN FEES BASIS FOR CHANGING MONTHLY 89730
 CARE FEES

(a) The contract form shall provide for any one of the following basic methods for calculating changes in fees:

- (1) Fees shall not be subject to change during the lifetime of the agreement.
- (2) Fees shall not be increased by more than a specified number of dollars in any one year and not more than a specified number of dollars during the lifetime of the agreement.
- (3) Fees shall not be increased in excess of a specified percentage over the preceding year and not more than a specified percentage during the lifetime of the agreement.
- (4) Fees shall be adjusted in accordance with the change in the provider's per capita cost, which may include depreciation or amortization of and interest on mortgage indebtedness in lieu of depreciation.
- (5) Fees shall be adjusted in accordance with changes in the Consumer Price Index (cost-of-living).
- (6) Fees shall be based on projected costs, prior year per capita costs, and economic indicators.

(b) The contract shall provide for notification of the resident at least 30 days in advance of any change in scope or price of any component of care and services.

(c) For the provider whose property is tax exempt, provision may be made that in the event it is required to pay property taxes, or in-lieu taxes, at some future date, such additional costs will be charged to the resident on a pro-rata basis.

Authority Cited: Section 1781, Health and Safety Code.

Reference: Sections 1770.7, 1779(a), and 1781, Health and Safety Code.

(18) Adopt new Section 89852 to read:

89852 REFUND RESERVE TRUST FUND

89852

- (1) Each refund reserve trust fund shall be established at an institution qualified to be an escrow agent, pursuant to an agreement between the provider and said institution based on Health and Safety Code Section 1775.5(c) and approved in advance by the Department.
- (1) The agreement shall specify that neither principal nor earnings may be withdrawn from the fund without prior written approval by the Department.
- (2) Circumstances for Departmental approval of withdrawals from the fund shall be limited to a reduction in the refund reserve requirement due to annual determination.

Authority Cited: Section 1781, Health and Safety Code.

Reference: Sections 1771(k), 1772, 1775.5, and 1782.5, Health and Safety Code.

(19) Repeal Section 89903

89903 EFFECTIVE FOR PERMIT

89903

(1) An application for a permit to sell direct subscriptions of life care contracts is eligible for a permit if the applicant:

- (1) Has received licenses from the Department of Appropriate Licensing Agencies or
- (2) Is cooperating with appropriate licensing agencies and meets all of the licensing requirements which can be met prior to construction of the building such as the proper organizational and management structure an adequate financial base, municipal permits and an acceptable plan to provide care to aged persons.
- (3) Plans to complete the project within 36 months from the date of application.

Authority Cited: Section 1781, Health and Safety Code.

Reference: Section ~~1773-5~~ 1781, Health and Safety Code.

(20) Amend Section 89907 to read:

89907 FILING APPLICATION FORMS AND ATTACHMENTS

89907

The application for permit to sell deposit subscriptions on life care contracts shall be completed on forms prescribed and supplied by the Department. A separate application shall be required for each proposed project. In addition to the following items shall be attached to the application form or submitted before the permit is issued:

(a) A copy of the completed application for license for the proposed facility from the Department of Social Services, Community Care Licensing Division and/or the Department of Health Services, Licensing and Certification Division pursuant to Sections 4250 et seq and/or Section 4500 et seq of the Health and Safety Code.

(b) Documentation otherwise required by Section 89613 for a certificate of authority application required by Section 89613 and sections of regulations and statutory law referenced therein.

(c) Financial projections shall include an estimate of the facility occupancy six months after opening the facility or the project phase for which deposit subscriptions are being taken.

(d) The proposed deposit subscription agreement form. The Department shall provide a sample form on request.

(e) The proposed escrow agreement form as required under Section 89530. The Department shall provide a sample form on request.

(f) A copy of the loan commitment if the applicant expects to finance construction by a mortgage may be submitted after the application is filed.

(g) Evidence of bond required by Section 89949 may be submitted after the application has been filed.

(h) The name of the proposed escrow agent for approval by the Department. When the approved escrow agreement form has been executed by an escrow agent approved by the Department, a copy shall be provided to the Department.

(h) A copy of any advertising material regarding the proposed project prepared for distribution or publication may be submitted after the application has been filed.

(i) A statement by the applicant(s) that they will keep the Department informed of any changes to the project plan as reflected in the application form and attachments.

Authority Cited: Section 1781, Health and Safety Code.

Reference: Section 1773.5, Health and Safety Code.

(21) Repeal Section 89922

89922 REPEALED NUMBER OF BEDDING SUBSCRIPTIONS 89922

WHERE A DEVELOPER STOPS TO CONSTRUCT A LIFE CARE FACILITY USING DEPOSITS FROM POTENTIAL RESIDENTS;

(a) BEFORE APPLICANT SUBMITS TO ANY MAJOR CONSTRUCTION FINANCING OBLIGATION WHETHER THE SALE OF BONDS OR PRIVATE BORROWING NO FEWER THAN SIXTY PERCENT OF THE UNITS PROJECTED TO BE OCCUPIED SIX MONTHS AFTER OPENING OF THE FACILITY (EXCLUDING SKILLED NURSING, INTERMEDIATE AND PERSONAL CARE) IN ACCORDANCE WITH SECTION 89907(f)(7) SHALL BE RESERVED WITH PAYMENTS OF NO LESS THAN FIVE PERCENT OF THE ACCOMMODATION FEE FOR EACH UNIT DEPOSITED PURSUANT TO THE ESCROW AGREEMENT;

(b) BEFORE START OF CONSTRUCTION NO FEWER THAN SIXTY PERCENT OF THE UNITS PROJECTED TO BE OCCUPIED SIX MONTHS AFTER FACILITY OPENING (EXCLUDING SKILLED NURSING, INTERMEDIATE AND PERSONAL CARE) IN ACCORDANCE WITH SECTION 89907(f)(7) SHALL BE RESERVED WITH TOTAL PAYMENTS OF NO LESS THAN TWENTY PERCENT OF THE ACCOMMODATION FEE FOR EACH UNIT DEPOSITED PURSUANT TO THE ESCROW AGREEMENT;

(c) FOR PROJECTS TO BE DEVELOPED IN SEPARATELY MARKETED PHASES, APPLICANT MAY TREAT EACH PHASE OF CONSTRUCTION OF UNITS AS A SEPARATE PROJECT FOR THE PURPOSES OF COMPUTING THE PERCENTAGES SET FORTH IN SUBSECTIONS (a) AND (b) PROVIDED THAT APPLICANT'S FINANCIAL AND DEMAND PROJECTIONS REFLECT THE PHASED UNIT DEVELOPMENT FORMAT;

Authority Cited: Section 1781, Health and Safety Code.

Reference: Sections 1773-6 and 1781, Health and Safety Code.

(22) Amend Section P9923 to read:

99923 REVOCATION OF PERMIT

89923

A permit shall be cancelled or revoked by the Department if ~~such acts or conditions constitute a~~ ~~conflict with~~ the provider fails to conform to the requirements of Sections 1773.5, 1773.9, 1782.5, or other sections of the Health and Safety Code and this Article relevant to a significant change or deviation from the circumstances indicated in the application documents, without departmental approval in consultation with the advisory board ~~recommendations~~. The person or organization provider whose permit to sell deposit subscriptions is revoked shall have right of appeal to the Department. The proceedings shall be conducted in accordance with Chapter 5, (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code. A revocation shall remain in effect until completion of such proceedings in favor of the appellant.

Authority Cited: Section 1791, Health and Safety Code.

Reference: Sections 1779.7, 1773.5, ~~1782.5~~, 1773.9, and ~~1784~~, 1782.5, Health and Safety Code.

(23) Amend Section R9927 to read:

R9927 SUBSCRIPTION PAYMENTS PROCESS

R9927

(a) No deposit subscription or processing fee of any kind shall be collected until the required permit to sell deposit subscriptions is issued by the Department. Deposit subscription payments ~~are to~~ shall be paid by check, draft or money order. Such instruments ~~are to~~ be made jointly payable to the permit holder and the escrow agent.

(b) Setting commissions may not be paid from funds which are subject to escrow.

(c) The processing fee may be paid directly to the permit holder provider since it is the only fee which is not subject to escrow.

Authority Cited: Section 1781, Health and Safety Code.

Reference: Section 1773.5, Health and Safety Code.

(24) Amend Section 89929 to read:

89929 DEPOSITS TO THE ESCROW AGENT

89929

Payments pursuant to deposit subscriptions shall be made to the escrow agent within ~~48 hours~~ ~~two business days~~ after their receipt from subscribers and shall be separately accounted for by the ~~permit holder provider~~. Deposits shall be accompanied by a copy of the executed deposit subscription agreement, a copy of the receipt given to the subscriber, and a deposit summary.

Authority Cited: Section 1781, Health and Safety Code.

Reference: Section 1773.5, Health and Safety Code.

(25) Repeal Section 89949

89949 REPEALING

89949

EVIDENCE SHALL BE PROVIDED THAT A SAFETY BOND OR INSURANCE FOR AT LEAST \$89,949, EXCLUDING ANY AMOUNT OF EXPIRATION OF THE PERMIT HOLDER WHO IS THE OWNER OF HIS OWNERSHIP OR AUTHORITY HAS BEEN MADE TO ANY SUBSTANTIAL AMOUNT OF FUNDS IS IN EFFECT DURING THE PERIOD THAT THE PERMIT TO SETT DEPOSIT SUBSCRIPTIONS IS IN FORCE.

Authority Cited: Section 1781, Health and Safety Code.

Reference: Section 1773.5 and 1774 1781, Health and Safety Code.

(26) Repeal Section 89950

89950 AMENDS

89950

(2) The permit holder's records shall be available for inspection at reasonable times by any authorized representative of the Department at the permit holder's principal office as indicated on the application for permit. Any complete audit of records made by the Department shall be made at the expense of the permit holder.

Authority Cited: Section 1781, Health and Safety Code.

Reference: Sections 1773.5, 1781, and 1788, Health and Safety Code.

OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

FILED

In this office of the Secretary of State
of the State of California

SEP 26 1988

At 5:25 o'clock P.M.
MARCH FONG EU, Secretary of State

By Andrea W. Murphy
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

Office of Administrative Law File No: 88-0826-03


✓ LINDA STOCKDALE BREWER
DIRECTOR

9/26/88

Date

FACE SHEET

FOR FILING ADMINISTRATIVE REGULATIONS WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

REGULAR
DEPARTMENT OF CALIFORNIA SERVICES

(AGENCY)

Lil S. Michel
AGENCY OFFICER WITH RULEMAKING AUTHORITY

8-29-88

FILED
In this office of the Secretary of State
of the State of California

SEP 30 1988
At 4:35 o'clock P.M.
MARCH FONG EU, Secretary of State
By *Lil S. Michel*
Deputy Secretary of State

For use by Secretary of State only

For use of Office of Adm Law

Date:

1. AGENCY CONTACT PERSON FOR THIS FILING
(See instructions)

Rosalie Clark, Chief, Regulations Development Bureau

TELEPHONE

445-0313

2. Type of filing, (check one) 30-day Review Emergency

Certificate of Compliance
(Complete Part 4 below)

Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)

Nonsubstantive changes with nonregulatory effect Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title MPP

SECTIONS ADOPTED:

30-755, 30-761 and 30-770

SECTIONS AMENDED:

SECTIONS REPEALED:

b. The following sections listed in 3a contain modifications to the text originally made available to the public:
Section 30-770

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

prior to the emergency adoption

within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

No Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

No Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

Fair Political Practices Commission
(Include FPPC approval stamp)

Building Standards Commission
(Attach approval)

State Fire Marshall (Attach approval)

Department of Finance (Attach properly signed Std. 399)

Other _____

(SPECIFY AGENCY)

a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER September 4, 1987	b. DATE OF FINAL AGENCY ACTION August 29, 1988	c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) 6/13/88 - 6/28/88
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9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

a. Effective 30th day after filing with the Secretary of State.

b. Effective upon filing with the Secretary of State.

c. Effective on _____ as required or allowed by the following statute(s): _____

d. Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)

Attach request demonstrating good cause for early effective date. Request subject to OAL approval.

e. Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.

Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.

Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)

b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).

Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).

Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.

Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

a. Fire and panic safety regulations (Govt. Code Sec. 11342.3.).

b. Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).

c. Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).

Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.

Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.

b. Provide the date on which the regulatory agency adopted the regulatory changes.

c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.

Part 9. Effective Dates — check one of the following:

a. A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.

b. An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.

c. If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).

d. If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.

e. If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.*
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

Amend Section 30-755 to read:

30-755 PERSONS SERVED

30-755

.1 Eligibility

.11 A person is eligible for IHSS who is a California resident who is living in his/her own home, and who meets one of the following conditions: (Continued)

Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: Section 11100, Welfare and Institutions Code.

Amend Section 30-761 to read:

30-761 NEEDS ASSESSMENT STANDARDS

30-761

.1 Services shall be authorized only in cases which meet the following conditions: (Continued)

.13 County social services staff has had a face-to-face contact with the recipient at least once within the past 12 months, and has determined that he/she would not be able to remain safely in his/her own home without IHSS. If the face-to-face contact is due but the recipient is absent from the state but still eligible to receive IHSS pursuant to the requirements stated in Section 30-770.4, Residency, the face-to-face requirement is suspended until such time as the recipient returns to the state.

Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: Sections 11100, 11100.1, and 11100.5, Welfare and Institutions Code.

Amend Section 30-770 to read:

30-770 ELIGIBILITY STANDARDS (Continued)

30-770

.4 Residency

.41 Residency in State Required

To be eligible for IHSS, an individual shall be a U.S. citizen, or an alien lawfully admitted for permanent residence or a Cuban or Indo-Chinese refugee eligible for SSI. eligible alien pursuant to Welfare and Institutions Code Section 11104. The individual shall also be a California resident, physically residing in the state except for temporary absence as noted below in Sections 30-770.42 through .45, with the intention to continue residing here.

Welfare and Institutions Code Section 11104 states:

"Aliens shall be eligible for aid only to the extent permitted by federal law."

"An alien shall only be eligible for aid if the alien has been lawfully admitted for permanent residence, or is otherwise permanently residing in the United States under color of law. No aid shall be paid unless evidence as to eligible alien status is presented."

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.42 Physical Absence from the State

Physical absence from the state indicates a possible change of state residence. The county shall make inquiry of a recipient who has been continuously absent from the state for 30 days or longer in order to ascertain the recipient's intent to maintain California residency. If the inquiry establishes that the recipient is no longer a California resident, authorization for IHSS shall be discontinued.

.421 The county inquiry to the recipient will require the recipient to submit a written statement that:

(a) Declares his/her anticipated date of return to the state, or his/her intent not to return to the state;

(b) Declares his/her reason for continued absence from the state; and

(c) Provides needed information on his/her location and status of household arrangements.

•422 The county will include in the inquiry to the recipient a statement that his/her failure to respond to the inquiry by a specified date will result in his/her ineligibility and the discontinuation of IHSS.

•43 Evidence of Residence Intention

•431 The written statement of the recipient is acceptable to establish his/her intention and action on establishing residence unless the statement is inconsistent with the conduct of the person or with other information known to the county.

•432 If the recipient does not respond by the specified date to the inquiry of residence, it shall be presumed that he/she does not intend to maintain California residency, and authorization for IHSS shall be discontinued when the absence exceeds 60 days in accordance with regulations (Sections 30-759.7 and 10-116).

•433 If the recipient responds to the inquiry and advises the county that he/she does not intend to return to California, authorization for IHSS shall be discontinued in accordance with regulations.

•44 Absence from State for More than 60 Days

•441 If the recipient responds to the inquiry and advises the county that he/she intends to maintain his/her California residence, but he/she remains or has remained out of state for 60 days or longer, his/her continued absence is *prima facie* evidence of the recipient's intent to have changed his/her place of residence to a place outside of California, unless he/she is prevented by illness or other good cause from returning to the state at the end of 60 days. Such absence in itself is sufficient evidence to support a determination that the recipient has established residence outside of California. Therefore, his/her intent to return must be supported by one or a combination of the following:

- (a) Family members with whom the recipient lived, currently live in California;
- (b) The recipient has continued maintenance of his/her California housing arrangements (owned, leased, or rented);
- (c) The recipient has employment or business interest in California;
- (d) Any other act or combination of acts by the recipient which establishes his/her intent to reside in California.

•442 Even if the recipient's intent to reside in California is supported by .441 above, the following evidence shall be utilized to determine the recipient's intent to reside in California:

- (a) The recipient has purchased or leased a place of residence out of state since leaving California;
- (b) The recipient has been employed out-of-state since leaving California;
- (c) The recipient has obtained an out-of-state motor vehicle driver's license after leaving California;
- (d) The recipient has taken any other action which indicates his/her intent to establish residence outside of California.

•443 Welfare and Institutions Code Section 11100 states that if a recipient is prevented by illness or other good cause from returning to California at the end of 60 days, and has not by act or intent established residence elsewhere, he shall not be deemed to have lost his residence in this state. The following is added by Welfare and Institutions Code Section 11100.1(a):

For purposes of the In-Home Supportive Services Program ... "good cause," as defined in Section 11100, shall include, but is not limited to, the following:

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(1) Outpatient medical treatment necessary to maintain the recipient's health where the medical treatment is not available in California.

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(2) Short-term schooling or training necessary for the recipient to obtain self-sufficiency where training which would achieve that objective is not available or accessible in California.

(3) Court-issued subpoena or summons.

(a) For outpatient medical treatment out of state, good cause for continuing to receive benefits while absent from the state for more than 60 days shall also include the situation where the medical treatment is not accessible in California.

(b) Accessible in these regulations means attainable for the recipient in California, given the dysfunctioning and needs of the recipient.

(c) Other good cause reasons for continuing to receive IHSS benefits while absent from the state for over 60 days shall be consistent with the good cause reasons contained in Welfare and Institutions Code Section 11100.1.

(1) The situation shall be of an urgent or emergency nature:

(2) The services required shall be necessary to maintain the physical or psychological health of the recipient:

(3) The services required or like services shall be either not available or not accessible in California.

.444 A recipient absent from California for more than 60 days and who is not prevented from returning to this state because of illness or other good cause shall have his/her authorization for IHSS discontinued in accordance with regulations.

.45 Absence from the State Exceeding Six Months

.451 Authorization for IHSS shall be suspended for any recipient who leaves the state and who remains absent from the state for a period which exceeds six months, notwithstanding the fact that the recipient has continued to receive IHSS benefits beyond 60 days because he/she was prevented from returning to the state due to illness or other good cause, as specified in Sections 30-770.43 and .44. Suspension of benefits will be in accordance with notice of action regulations contained in Sections 30-759.7 and 10-116.

.452 In-Home Supportive Services shall not be resumed until the recipient, upon returning to the state, requests a reassessment of need from the county, and the reassessment has been completed in accordance with regulations (Section 30-763).

.46 Outside the United States While Absent from the State

.461 In-Home Supportive Services shall be discontinued for any recipient who is outside the United States for all of any month, or for 30 days in a row, as such an individual is no longer eligible to receive SSI/SSP. Discontinuation of benefits will be in accordance with notice of action regulations.

(a) Upon the individual's return to the United States, and upon his/her reestablishment as an SSI/SSP recipient, an SSI/SSP eligible recipient, or an individual who would be eligible for SSI/SSP except for excess income, he/she may again apply for IHSS benefits. The county shall redetermine IHSS eligibility and perform a needs assessment based on current circumstances.

(b) "United States" includes the 50 states, the District of Columbia, and the Northern Mariana Islands.

.47 Continuation of IHSS While Absent from the State

.471 When the county has determined that the recipient is entitled to the continuation of IHSS benefits while absent from the state (the recipient is absent from the state for 60 or more days and is prevented from returning due to illness or other

good cause, as determined in Sections 30-770.42, 43, and 44,) the following apply:

- (a) The recipient shall continue to receive the same number of hours of IHSS that were authorized prior to his/her temporary absence. This level of authorization will continue until a reassessment is required.
- (b) The recipient's out-of-state individual provider (IP) shall be reimbursed at the county's lowest current IP base rate.
- (c) The recipient must continue to mail timesheets to the county as required by regulations.

Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: Sections 11100, 11100.1, and 12150, Welfare and Institutions Code; 20 CFR 416.214, and 20 CFR 416.1600.

OFFICE OF ADMINISTRATIVE LAW
CERTIFICATION
OF
APPROVAL

FILED

In this office of the Secretary of State
of the State of California

SEP 30 1988

At 4:35 o'clock p.m.
MARCH FONG EU, Secretary of State
By Linda S. Brewer
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking
file identified below were reviewed and approved by the Director of the
Office of Administrative Law in the city of Sacramento, state of
California.

Submitting Agency: Department of Social Services

Office of the Secretary of State
OAL File No: 88-0831-01


LINDA STOCKDALE BREWER
DIRECTOR

9-30-88

Date